

RPTS MCKENZIE

DCMN HERZFELD

MARKUP OF

H.R. 1123, THE UNLOCKING CONSUMER CHOICE AND WIRELESS COMPETITION ACT;

H.R. 2542, THE REGULATORY FLEXIBILITY IMPROVEMENTS ACT OF 2013;

H.R. 2641, THE RESPONSIBLY AND PROFESSIONAL INVIGORATING DEVELOPMENT
ACT (RAPID) OF 2013; AND

H.R. 2655, THE LAWSUIT ABUSE REDUCTION ACT OF 2013

Wednesday, July 31, 2013

House of Representatives,

Committee on the Judiciary,

Washington, D.C.

The committee met, pursuant to call, at 11:25 a.m., in Room 2141,
Rayburn House Office Building, Hon. Bob Goodlatte [chairman of the
committee] presiding.

Present: Representatives Goodlatte, Sensenbrenner, Coble,
Smith of Texas, Chabot, Bachus, Issa, Forbes, King, Franks, Gohmert,
Jordan, Poe, Chaffetz, Marino, Gowdy, Labrador, Farenthold, Holding,

Collins, DeSantis, Smith of Missouri, Conyers, Nadler, Scott, Watt, Lofgren, Jackson Lee, Johnson, Pierluisi, Chu, Deutch, Bass, DelBene, Garcia and Jeffries.

Staff Present: Shelley Husband, Staff Director; Branden Ritchie, Deputy Staff Director/Chief Counsel; Allison Halataei, Parliamentarian; Kelsey Deterding, Clerk; Daniel Flores, Counsel; Paul Taylor, Counsel; Joe Keeley, Counsel; Daniel Huff, Counsel; Perry Apfelbaum, Minority Staff Director; Danielle Brown, Minority Parliamentarian; David Lachmann, Minority Counsel; James Park, Minority Counsel; Susen Jensen, Minority Counsel; Stephanie Moore, Minority Counsel; and Jason Everett, Minority Counsel

Chairman Goodlatte. The Judiciary Committee will come to order. And without objection, the chair is authorized to declare a recess at any time.

Pursuant to notice, I now call up H.R. 1123 for purposes of markup and move that the committee report the bill favorably to the House.

The clerk will report the bill.

Ms. Deterding. H.R. 1123, to promote consumer choice and wireless competition by permitting consumers to unlock mobile wireless devices, and for other purposes.

Chairman Goodlatte. Without objection, the bill will be considered as read and open for amendment at any point.

[The information follows:]

***** INSERT 1-1 *****

Chairman Goodlatte. And the manager's amendment in the nature of a substitute, which the Members have before them, will be considered as read, considered as the original text for purposes of amendment, and open for amendments at any point.

[The information follows:]

***** INSERT 1-2 *****

Mr. Scott. Mr. Chairman.

Chairman Goodlatte. For what purpose does the gentleman from Virginia seek recognition?

Mr. Scott. Mr. Chairman, I just wanted to point out that the Democratic Caucus meeting with the President just ended. And I walk a little faster than some of my colleagues, so they will be joining us presently.

Chairman Goodlatte. I appreciate the gentleman pointing that out to us. I would add to that that in deference to the importance of the caucus meeting with the President of the United States, we have delayed the markup from 10:00 to 11:00. And I will read my opening statement on the slower side to afford other Members the time to get here.

Mr. Scott. Thank you, Mr. Chairman. I appreciate it.

Chairman Goodlatte. I thank the gentleman.

This March the leadership of this committee introduced bipartisan legislation to ensure that consumers would continue to be able to unlock their cell phones. Americans who have completed their phone contracts or have purchased a used phone want to be able to use their device on their network of choice. They have made that preference loud and clear, and Congress has listened.

H.R. 1123 restores the previous authority for cell phone unlocking and adds a new rulemaking process for related wireless devices, such as tablets and other cellular connected devices.

I will shortly offer a manager's substitute to modify the

introduced version of H.R. 1123 to assist consumers further. I have often spoken about the need to protect the creator and how theft of their work affects not just that creator, but our Nation's economy as a whole. An important part of helping creators is to enable them to protect their works from theft in the first place by using technological protection measures. I believe that section 1201 is an important tool that helps creators protect their works from theft.

The changes made by H.R. 1123 only impacts cellular devices and do not impact other copyrighted content protected by technological protection measures. There may be some who wish for more changes to be made to the DMCA, and there will be plenty of time to consider such suggestions during this committee's review of copyright law. The world has changed since the DMCA was first enacted, and it is important for this committee to learn both how it has helped creators protect their work from theft as well as what concerns some may have about it. Today, however, it is about fixing a specific consumer issue impacting cellular devices.

[The statement of Chairman Goodlatte follows:]

***** COMMITTEE INSERT *****

Chairman Goodlatte. I would be happy to yield to the gentleman. I am prepared to yield to the ranking member for his comments on the legislation.

Mr. Scott. I will defer at this time, Mr. Chairman. We have amendments to the bill. Our Members are not here quite yet, but they are on their way, if you were going to yield to the ranking member.

Chairman Goodlatte. I think what might be appropriate would be for me to --

Mr. Chaffetz. Mr. Chairman.

Chairman Goodlatte. The gentleman from Utah.

Mr. Chaffetz. May I ask to strike the last word?

Chairman Goodlatte. The gentleman is recognized.

Mr. Chaffetz. Thank you.

Listen, I appreciate your bringing this bill up. I know you and the Judiciary staff have been working closely with the Senate for some time and months as we were all surprised by the decision that had come out that makes this piece of legislation necessary. I will also point out the White House has been very supportive of doing something in this regard.

The marketplace needs certainty. You bought your phone. You own your phone. You should be able to unlock it to move and change carriers.

I would like to ask, Mr. Chairman, unanimous consent to enter into the record a letter from the Competitive Carriers Association dated today, July 31, 2013.

Chairman Goodlatte. I am sorry?

Mr. Chaffetz. I ask unanimous consent to enter into the record the Competitive Carriers Association letter dated today.

Chairman Goodlatte. Without objection, that will be made a part of the record.

[The letter follows:]

***** COMMITTEE INSERT *****

Mr. Chaffetz. Let me just read a portion of this, as they, obviously, have a vested interest in this. And I like the example that they used.

Taking from the letter, "Just as locksmiths may unlock an individual's car or home when they do not have the necessary key, it is important that we do this." They say, quote, "Importantly, the exemption should not limit who may provide assistance to unlock a device."

And as you know, Mr. Chairman, I will be introducing an amendment that I have done together in conjunction with Zoe Lofgren, who has been very smart on this issue. We have worked together for a bipartisan amendment that we will be offering at the appropriate time.

But this is just an important thing for consumers. It is an important thing that the Congress has to address because of the surprise decision that was laid down. And I know that you are working long term to broader reforms that are needed within the Copyright Act itself, but I do appreciate you bringing up this bill. It is a good bill. We will be offering an amendment to make it even stronger.

But I would encourage my colleagues to make this happen. And it would give a lot of help and support to consumers and people who are interested in this type of thing.

With that, I yield back.

Chairman Goodlatte. I thank the gentleman.

[The statement of Mr. Chaffetz follows:]

***** COMMITTEE INSERT *****

Mr. Scott. Mr. Chairman, I think Mr. Watt has an opening statement.

Chairman Goodlatte. I will be happy to recognize the gentleman from North Carolina for an opening statement for 5 minutes.

Mr. Watt. Thank you, Mr. Chairman. I regret that we were late, but we had a caucus at which the President appeared, and it is not always possible to rush the President of the United States.

So let me just do this as quickly as possible, because earlier this year I, along with a number of others, joined in a bipartisan, bicameral introduction of a bill designed to provide consumers with the ability to unlock their cell phones. "Unlocking" refers to the process of changing the software setting on a cell phone to enable the device to work on another network.

At the time we introduced the House companion to the Senate bill, I said, quote, "I am pleased to cosponsor legislation designed to reflect the desire of the public to unlock their cell phones in order to switch providers at the expiration of their contract without the need to purchase a new phone. The quality of the DMCA process depends upon the quality of the record. Future participants in the process should build an adequate record upon which an exemption may be based," closed quote.

The relevant policy choices concerning flexible cell phone use involve a complex web of communications, competition, and copyright law. For me, the skillfully sculpted and identical bills introduced in March in the House and Senate effectively blended those policy

choices and achieved two important goals reflected in my quote. First, they responded to the call to rescind the most recent decision of the Librarian of Congress concerning cell phone unlocking by doing just that, rescinding that decision. Second, they left intact the valuable, though not flawless, 1201 proceedings under which the Copyright Office gathers evidence to determine whether exemptions are warranted to the legal ban against circumventing technological measures that protect uninhibited access to copyrighted works.

Thus, H.R. 1123 struck a delicate balance by providing consumers greater choice to use their cell phones for longer periods of time without the need to purchase new phones when switching to another carrier, and by limiting the impact on the 1201 process to the specific determination on cell phone unlocking at issue.

I continue to support H.R. 1123, on which I am an original cosponsor, and the overall goal of freeing consumers to unlock their phones, and would enthusiastically vote "yes" to report the bill, as introduced, favorably out of committee. Unfortunately, I am unable to support the content of the amendment that will be offered to amend the introduced the bill or the process that got us here.

Last week we requested a delay in the markup because, as an original cosponsor, we were disappointed that we had not been meaningfully consulted in the development of the substitute or provided adequate time to review and assess its consequences, including consulting with the administration and other relevant stakeholders. Despite making our process concerns eminently clear, we again, as

original cosponsors to the underlying bill, were supplied with the amendment that will amend the substitute now after 9 p.m. last night on the eve of this markup.

This is simply not the model of bipartisanship that I had envisioned. Indeed, the chairman said at the first hearing of the IP Subcommittee on comprehensive copyright review, which was captioned "A Case Study for Consensus Building: The Copyright Principles Project," I would suggest to the chairman that the process that has accompanied bringing this bill to markup is just the antithesis of consensus building. So I am real concerned about that.

Let me just say this: You start with a bipartisan bill, the leadership of the committee and the subcommittee, Democrat and Republican. You introduce a bill. You have a hearing at which every single witness testifies that we have found the exact right sweet spot to do this process, and then all of a sudden you take what was a bipartisan product and just decide that you are going to change it in ways that -- and do it at the last minute without any real consultation on what the consequences are or allowing the stakeholders -- and there are a lot of concerns being expressed by stakeholders about where you are moving this bill to.

And I just think it is just not a good thing to do what you are doing process wise. And in this case I think we have moved the bill from where we should be substantively to a bill that -- to a place that we shouldn't be substantively. And it is those concerns that will lead me to try to amend the bill back to where it should be, and if we fail

in that process, then I will have to reluctantly say to the chair that I just can't be supportive of where we end up.

So I regret that, because, you know, we started this process with full intention and with the same objective, and I don't know how we moved from that place to where we are today.

[The statement of Mr. Watt follows:]

***** COMMITTEE INSERT *****

Chairman Goodlatte. Would the gentleman yield?

Mr. Watt. I am happy to yield to the chair.

Chairman Goodlatte. I very much value the gentleman's input on this. I have been pleased to work with the gentleman, and we have worked. When we became aware of his concern, we postponed the markup for a week.

Mr. Watt. Then you gave me another bill last night at 9 o'clock.

Chairman Goodlatte. Would the gentleman continue to yield?

Mr. Watt. I am happy to yield to the chairman.

Chairman Goodlatte. As we have worked through this, we have found that a number of Members on your side of the aisle in both the House and the Senate and the President of the United States support the direction that we are moving.

Mr. Watt. Well, Mr. Chairman, if that were the case, there is a protocol. There is a ranking member of the committee. There is a ranking member of the subcommittee. And if Members on my side of the aisle wish to vote for this, and they want to make changes, one would think that I would at least know about that and the ranking member of the full committee would know about it rather than just the chairman of the full committee. And the ranking member of the committee hasn't even been here, so, I mean, I can't imagine that he has been involved in that process.

So I appreciate what the gentleman is saying. And if those people want to vote for this bill, that is fine. But this is inconsistent with where we started, and it is inconsistent with what a lot of the

interest groups that thought that we had found the exact sweet spot believed we should be going to. And unfortunately a lot of them are not free to confront the chair and say that to the chair publicly like I am, but I am telling you, you are making a lot of people in the industries very uneasy and unhappy with where you are taking this, and I think you are making a mistake to do it.

I will yield back to the gentleman if he wants, or I will yield back whatever time I have.

Chairman Goodlatte. The chair thanks the gentleman and recognizes the gentleman from Michigan, the ranking member of the committee.

Mr. Conyers. Chairman Goodlatte, without the Southern inflection that my dear friend from North Carolina uses so persuasively, I must say that he has put his finger on a new and serious development that changes a bill that I am a cosponsor of, and much to my surprise, we have had issues now added on through the manager's amendment that have not been cleared or supported. I have got a proposal, an amendment that might remedy it if it was to be accepted, but I would want to clear it through the gentleman from North Carolina.

I appreciate the efforts of both sides in our wonderful bipartisan attempt to balance among the various entities their interests in the matter, but the manager's amendment fails to strike a proper balance, and it leads me to an unhappy conclusion about the bill. The bill, as originally introduced, did achieve this goal. It addressed the consumers' interests in restoring the exemption previously provided

by the Librarian of Congress in the 1201 proceedings. This bill, as introduced, also enhanced consumer choice in the cell phone market.

The goal ought to be to allow a purchaser to switch his or her phone from one network to another, and I am concerned that there are some unintended consequences around the bend here. And I have heard from some people who have deep concerns with some of the language in the manager's amendment.

Let us hope we may be able to strike a balance with the manager's amendment. Maybe it can be remedied. If not, then I am very disappointed about the direction that we are moving in.

And I ask unanimous consent to put in my statement and yield back the balance of my time. I thank you.

Chairman Goodlatte. The chair thanks the gentleman for his opening statement.

[The statement of Mr. Conyers follows:]

***** COMMITTEE INSERT *****

Chairman Goodlatte. And I would note that the manager's amendment has been available for at least a week now. It is only other amendments that the Members on both sides of the aisle haven't seen, as is usual until they are made available prior to markup of the committee.

But I think the best way to get to this is to have a debate on those amendments. And so we will now open the markup to amendments.

And I ask the gentleman from Utah for what purpose he seeks recognition.

Mr. Chaffetz. I thank the chairman.

I have an amendment to the amendment in the nature of a substitute to H.R. 1123.

Chairman Goodlatte. And the clerk will report the amendment.

Ms. Deterding. Amendment to the amendment in the nature of a substitute to H.R. 1123 offered by Mr. Chaffetz of Utah and Ms. Lofgren of California. Page 1, strike lines 6 and 7 and insert the following.

Chairman Goodlatte. Without objection, the amendment will be considered as read.

[The amendment of Mr. Chaffetz and Ms. Lofgren follows:]

***** INSERT 1-3 *****

Chairman Goodlatte. And the gentleman is recognized for 5 minutes on his amendment.

Mr. Chaffetz. I thank the chairman. And I want to make clear from the very beginning I appreciate the good work and the perspective of Zoe Lofgren. She is, as I said earlier, very smart on these issues. We have been working in a very collaborative way. We do this jointly, and I think we have a strong amendment that people on both sides of the aisle already do support and can be supportive.

The amendment makes three changes to the manager's amendment that was offered last week. The original provision allowing unlocking assistance is modified to make clear that family members of cell phone owners can also utilize this unlocking assistance provision, while at the same time making clear that hacking of a cellular network is not permitted. We are not getting into jail breaking and some of these other issues, but for the sole purpose of unlocking your phone, we believe that you don't necessarily have to be that exact person.

If you have a family member who knows how to do this, if you have a 13-year-old in your house, they are probably more qualified than you, as a parent, to make these adjustments. You may have a neighbor or a friend, or maybe there is somebody at a kiosk that you trust to do this. As long as they are not breaking the law, we believe that anybody should be able to make these sorts of adjustments, and in this tech age, that is the way it works. To suggest that it has to be just a person who is authorized from that particular network would impede the ability of consumers to do what they want to do with a product that

they own. And that is within the law.

The parallel that we use here is let us pretend that you locked your keys in your car. Should you have to go to the Ford Motor Company to unlock that car so you can have access to it? No. Can you call a local locksmith? Can you call your uncle, or your nephew, or your grandpa and say, Grandpa, I need some help with this? Of course you should. It is a mobile phone, for goodness sake. We are talking about a mobile phone. Of course you should be able to do that. That is what this amendment allows you to do.

The original provision allowing unlocking assistance for the next 2 years is modified to making it permanent so that whenever there is an exemption to section 1201 in existence that allows unlocking of wireless devices, unlocking assistance is automatically permitted as a matter of law.

And finally, there was a section in there regarding the GAO. And while reporting sounds good, we did get feedback from the GAO that the way this was constructed was just not palatable. They just couldn't execute it like that. And so the feedback from the GAO indicated that the report, as drafted, was unworkable. We are listening to what the GAO says, and we take that provision out.

So again, we offer this in a bipartisan way. I thank my colleague from California, Zoe Lofgren. We introduced this together, and we would urge my colleagues to support this amendment.

I yield back.

Mr. Watt. Mr. Chairman?

Chairman Goodlatte. For what purpose does the gentleman from North Carolina seek recognition?

Oh, actually the gentleman from Michigan.

Mr. Conyers. Well, I will yield to Mr. Watt with pleasure.

Mr. Watt. Mr. Chairman, I have a second-degree amendment to Mr. Chaffetz's amendment at the desk.

Chairman Goodlatte. The clerk will report the amendment to the amendment.

Ms. Deterding. Amendment offered by Mr. Watt to the amendment offered by Mr. Chaffetz. Page 1 --

Chairman Goodlatte. Without objection, the amendment to the amendment will be considered as read.

[The amendment of Mr. Watt follows:]

***** INSERT 1-4 *****

Chairman Goodlatte. And the gentleman from North Carolina is recognized for 5 minutes to explain his amendment.

Mr. Watt. Thank you, Mr. Chairman.

Perhaps we should just turn this process over to Mr. Chaffetz and Ms. Lofgren, if they think they want to write the bill, which is exactly what it appears that we have done.

Mr. Chaffetz. Will the gentleman yield?

Mr. Watt. Let me get my amendment on the floor, and then you will have 5 minutes on mine, and I will yield you whatever time you need. We will get you the time. But right now I control the time.

The bill that was originally introduced responded to the public's desire to restore the exemption previously provided by the Librarian of Congress in the 1201 proceeding. That exemption allowed a person to unlock his phone for the purpose of switching to another carrier. Both the amendment in the nature of a substitute and the Chaffetz amendment broadens that exemption by permitting an individual or his family member -- a 13-year-old that Mr. Chaffetz referred to -- to direct others to unlock their phone.

My amendment restores the balance we had achieved in the introduced version of the bill. My amendment does essentially three things. First, it accepts the notion that individuals be permitted, as they had before the 2010 rulemaking, to unlock their phones.

Second, it accepts the notion that individuals who are not technologically skilled to unlock on their own can obtain assistance. My amendment differs, however, from the manager's and the Chaffetz

amendments in this regard in that it specifies that the individual may unlock with the new carrier or agents of the new carrier. This allows the individual to get the appropriate technical assistance from the carrier to whom he now wants to change service all in one fell swoop. It is efficient and ensures that a cottage industry of cell phone unlockers does not emerge to exploit consumers.

An unlocked phone in and of itself has no value to the consumer. If our goal is to permit the consumer to freely move from one network to another, that narrow purpose can be achieved by relieving them of the burden of seeking unlocking from the network they wish to leave and permitting the new carrier to unlock without fear of liability.

Finally, my amendment ensures that the third-party assistance, appropriately narrowed, attends to any future rulemaking by the Librarian of Congress only with respect to cell phones. Any attempt to expand this to include tablets or anything other than a cell phone is unsupported by any record that this committee has considered.

We should allow for the third-party assistance, but only for cell phones. The Librarian of Congress has never issued an exemption for the unlocking of tablets, and we have no facts upon which to assume that unlocking tablets should be extended to third parties. If the Librarian of Congress makes that determination, the Librarian of Congress ought to make that determination; we should not be doing it without creating a record here in this committee.

My amendment continues the joint effort that accompanied the introduction of H.R. 1123, and I hope my colleagues will see fit to

support it.

And I am happy to yield to Mr. Chaffetz if he wants me to, or he can get his own time if he would like.

Mr. Chaffetz. I thank the gentleman. If the gentleman would yield, I simply want to point out I was concerned about the initial tone of concern. I work closely with Zoe Lofgren. She is a wonderful Member. I get along with her. I think she is very smart on these issues. When I work on an amendment in a bipartisan way, that should not be construed as something negative against any other Member. I am just trying to work in a collaborative way. That is the only point I wanted to make.

Mr. Watt. I am not trying to make anything negative about it, but when a member of the committee introduces an amendment in the nature of a substitute that substitutes for the whole bill, it just seems to me that at least the ranking member of the full committee and the ranking member of the subcommittee with jurisdiction over the issue ought to at least know about it.

That is the point I was making. And that is not a reflection on you or Ms. Lofgren. Both of you are nice people, but you went beyond the original bill this time, and I think that is a serious mistake.

So the committee rules do require some posting of amendments in the nature of a substitute. This is the whole bill. This is not a modest amendment to the bill that we had a hearing about and was vetted extensively with all parties out in the public. This is not the way to do this.

I yield back, Mr. Chairman.

Chairman Goodlatte. The chair thanks the gentleman and recognizes himself in opposition to the amendment to the amendment.

I would say to the gentleman that this is an issue that has been discussed and debated for quite some time. And let us get down to what the facts are we are talking about here, because since the unlocking provision expired, how do you think people are buying cell phones and transferring data from one to another? They are going to their carriers. They are going to kiosks in the mall. They are going to family members, including their 13-year-old son and daughter. And all this amendment does is to make that reality lawful.

So what do you think the people who live out in rural America or who live a long distance from one of those cellular communication stores is thinking about this, who lives in a rural part of North Carolina, or Utah, or a whole host of other places in the country? They want to be able to do it. This is a step forward for American consumers.

And what do you think the carriers think about this, the people who provide these services? Well, the gentleman from Utah introduced into the record, I think maybe before the gentleman from North Carolina arrived, a letter from the Competitive Carriers Association, rural, regional, nationwide: "Thank you for today's consideration of H.R. 1123, the Unlocking Consumer Choice in Wireless Competition Act. CCA appreciates your continued work and focus to expand consumer choice and remove barriers to wireless competition by allowing consumers to unlock wireless devices. CCA supports unlocking for every consumer

that has met the terms and conditions of their contract or service agreement. As many consumers may not have the technical expertise to unlock a device themselves, an unlocking exemption to the DMCA should allow an agent of the consumer to perform the unlocking procedure, just as a locksmith may unlock an individual's car or home when they do not have the necessary key. Importantly, the exemption should not limit who may provide assistance to unlock a device. Increased access to unlocking, including through rural, regional, and smaller competitive carriers, helps greater numbers of consumers enjoy innovative services and rate plans without giving up previously purchased devices, applications, and associated content.

Now, that is what this amendment does. It is supported by the consumers of America, it is supported by the people they are doing business with, and we ought to pass the amendment.

Who seeks recognition?

Mr. Watt. I ask the chairman to yield.

Chairman Goodlatte. I would be happy to yield to the gentleman.

Mr. Watt. I just want to remind him that that takes us back to a point. You made the exact point. We are now back to not having any rules. You are back to what you had before we set up the process under the DMCA, but that is --

Chairman Goodlatte. No. We have very clear rules that apply to specific devices under specific circumstances.

And for what purpose does the gentleman from Georgia seek recognition?

Mr. Collins. I move to strike the last word, Mr. Chairman.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Collins. I yield to the gentleman from Utah.

Mr. Chaffetz. Thank you.

In listening to my friend and colleague from North Carolina, I appreciate his perspective. I actually don't think we are too far away. I think as we listen to this, most of it is agreeable.

The question really in Mr. Watt's amendment to the amendment that Zoe Lofgren and I have introduced goes to lines 14 and 15. If you look at his amendment, lines 14 and 15 would limit the people that can make this alteration to your phone, which would be, according to law -- and by the way, which has been the way you have been able to do it for a while -- it is authorized agent or licensed vendor. The amendment that we offer simply says there are others that do this that aren't necessarily working for, say, an AT&T or Verizon.

Just to put this in perspective, I have a county in my district, it is larger than the size of Connecticut, and it has 15,000 people. You are not going to have an AT&T store or a Verizon store, which are two of the major carriers in our State, that you can conveniently go to unless you can drive, you know, 4 hours to Salt Lake City. There are other people that can do this in accordance with the law.

We are not trying to get into some of the other content areas, which I know the gentleman is very concerned about. But the question is, who can actually perform this? How who can actually do this? And that is why I think we are actually fairly close. It is why I oppose

your amendment, because I don't think we should limit that. I think there are others that are qualified and able to do the same thing that an authorized agent would be able to do, and that we should allow them to do that.

That is, in part, the way the tech community works. It is one of the great strengths. It is where a lot of the innovation comes from.

We are talking about unlocking a mobile phone. That is what we are here talking about and arguing about. Should it have to be just the representative from the carrier? Even the Competitive Carriers Association says, no, we should open this up. And that is what we are doing. That is why I think that we should vote "no" on the amendment offered by Mr. Watt. But I would encourage my colleagues to vote for the Chaffetz-Lofgren amendment.

I yield back.

Chairman Goodlatte. For what purpose does the gentlewoman from California seek recognition?

Ms. Lofgren. To strike the last word.

Chairman Goodlatte. The gentlewoman is recognized for 5 minutes.

Ms. Lofgren. First, let me offer my apologies for my tardiness. As you know, the President met with Democrats this morning, and I had a delayed meeting that delayed me from here.

But I am proud to be a cosponsor of the amendment offered by Mr. Chaffetz, as well as to ask that Mr. Watt's amendment be rejected. Although I am sure offered with the best intentions, I do believe that

it undercuts the kind of freedom to use devices that Americans think they have when they purchase something.

As we know, we are in a vastly accelerating time of technological change. A phone is no longer the only way to communicate wirelessly. We have tablets. I think most of us have iPads or mini iPads. To limit, as the amendment does, the ability to use what you buy only to iPhones I think would be a mistake. And I also think that we need a solution that is ongoing, not temporary.

I think most Americans were stunned when the Library of Congress decided that when people bought their phone or their iPad, that they really couldn't use what they bought. A lot of people thought, well, what has the Library of Congress got to do with that?

I think that the country is looking to this committee. Certainly the President has indicated an interest in fixing this problem. I have a bill that goes further than the chairman's bill does, and I realize that that is not before us today. I hope at some point we will be able to take it up. But I am a cosponsor of Chairman Goodlatte's bill, and I think Mr. Chaffetz's amendment with mine improves it.

And I thank the gentleman for yielding, and I yield back.

Mr. Farenthold. Will the gentlelady yield?

Ms. Lofgren. If I can reclaim my time, I would be happy to yield.

Mr. Farenthold. I just want to thank you for joining with Mr. Chaffetz and point out my support for this bill -- or my opposition to Mr. Watt's amendment, because as I read Mr. Watt's amendment, if my daughter came to me with her cell phone and asked me to unlock it,

as kind of the tech guru of the house, I couldn't even help my daughter unlock her cell phone, the rules are so strict in this.

I think I ought to be able to unlock my cell phone or my tablet, and so I urge my colleagues to oppose this.

I will yield back.

Chairman Goodlatte. The chair thanks the gentleman.

Mr. Conyers. Mr. Chairman.

Chairman Goodlatte. For what purpose does the gentleman from Michigan seek recognition?

Mr. Conyers. I rise in support of the Watt amendment.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Conyers. And I hope that I am a cosponsor, and if I am not, I ask unanimous consent to be added to it.

I think we are at a very different place from where we started out on this bill, Unlocking Consumer Choice and Wireless Competition Act. What we need to do now, I think, is to recognize that the Consumers Union has not spoken out in favor of these changes that are now plaguing this measure. And the content industry, the movies, songwriters, software, I think they have come out against it. So we have to be cognizant of the fact that there are a lot of shifting sands and positions going on here in the guise of strengthening a bill that we thought was going to be a work in progress.

May I point out that we should assure the third-party assistance is appropriately narrow and attends to any future rulemaking by the Librarian of Congress only with respect to cell phones. Now, if you

can't handle your 13-year-old daughter's technology, that is okay, but we don't have to write legislation around it. We should allow the third-party assistance, but only for cell phones. And the Librarian of Congress has never issued an exemption for the unlocking of tablets, and we have no facts yet -- this wasn't discussed in the earlier procedures of this committee or subcommittee --

Mr. Chaffetz. Will the gentleman yield?

Mr. Conyers. In time, yes -- upon which to assume that unlocking tablets should be extended to third parties.

My amendment continues the joint effort that accompanied the introduction of H.R. 1123, and I hope that my colleagues will support the Watt amendment, which carries out our original desire to restore the exemption previously provided by the Librarian of Congress.

Chairman Goodlatte. Would the gentleman yield?

Mr. Conyers. Of course.

Chairman Goodlatte. I thank the gentleman for yielding.

I would just want to point out that the language is "cell phones or other cellular devices," and the language in the underlying bill, as originally introduced and which you joined me in, has a clear provision for tablets. So I don't think that we are very far afield here. The only question is whether a family member can direct somebody to unlock a device for them within this limited framework of cell phones and other cellular devices.

Mr. Conyers. My dear chairman, it did not provide for unlimited third-party assistance, and that presents the problem that makes me

support the Watt amendment, oppose Chaffetz, and try to adhere, even with the language that you cite, to the original intent of H.R. 1123, the Unlocking Consumer Choice. This is the wrong direction.

Mr. Chaffetz. Would the gentleman yield?

Mr. Conyers. Mr. Chaffetz, you are the original person that has created this impasse, and I would be happy to yield to you now.

Mr. Chaffetz. So you do agree that unlocking your phone is okay?

Mr. Conyers. Well, that is what the bill is about.

Mr. Chaffetz. But what you disagree with is who would do it?

Mr. Conyers. Yes.

Mr. Chaffetz. So if you are okay with unlocking it, if I did it, or if my colleague Mr. Gowdy did it, you have a problem with somebody else doing it, but you are okay -- now if it is my phone, and my wife wants to have it unlocked, you have got a problem with that? Why?

Mr. Conyers. Someone said I would be okay with Chaffetz, but maybe not with Gowdy.

Mr. Chaffetz. I understand. Point well taken.

Mr. Conyers. All I want to do is try to adhere to what I thought was the original intent and direction of H.R. 1123. And now, without any previous discussions before, we come to the markup, and now we have these deviations that I don't support at this point.

Mr. Chaffetz. If you would yield. Would the gentleman yield?

Mr. Conyers. Of course.

Mr. Chaffetz. So going back to the point I was trying to make, you are okay with unlocking it, you just disagree who shall unlock it.

Now, I don't think that is a huge leap and a total change in direction of where we are going here. We are still talking about performing the exact same function, a function that, by the way, for a lot of people is really relatively easy. For me, it is difficult. For probably most of the people on this dais, it is real difficult.

Mr. Conyers. Pardon me, sir. Could I just yield briefly to the gentleman from New York Mr. Nadler?

Mr. Chaffetz. Sure.

Mr. Nadler. Thank you. And let me just add full confidence in Mr. Gowdy.

I support the bill, or the initial version of the bill, but at this point, I am going to support Mr. Watt's amendment, and I oppose the Chaffetz amendment essentially because it is new, it is too new, and I don't understand the full implications of unintended consequences.

And certainly I have no problem with members of the family and so forth. But as I understand what we are talking about now, we are talking about third parties, and it may be -- and you may have a good reason for that. I understand the problem with no Verizon or AT&T store in the county or whatever, and I am sure it is a serious concern, and there may be things to do about it. But what I worry about, frankly, is that if we set up a new, unregulated market of third-party unlockers, or whatever we would call them, the next step may be that they will start saying, well, why not unlock content? Why not unlock songs or other things?

Now, if it were limited solely -- and the bill is, but the situation isn't -- to unlocking your phone from one carrier to another, I have no problem with anybody in the world doing that, but I do worry --

Mr. Chaffetz. Would the gentleman yield?

Evidently you do have a problem with who in the world does it.

Mr. Nadler. I do have a problem with setting it up in such a way that we set up the next step, or that we may set up the next step. As I said, if we had more time to think about this and study it, I might come to a different conclusion, but to set up the next steps where we start having people with the ability and the motivation to unlock other things besides companies, and that relates to a whole lot of copyright issues that I am not sure we have thought out properly here.

Mr. Conyers. We support the Watt amendment, and I yield back the balance of my time.

Chairman Goodlatte. I thank the gentleman.

The gentleman seeks recognition, and we are well past the announced intention to take a lunch recess. The committee will recess and reconvene at 1:15.

[Recess.]

RPTS BLAZEJEWSKI

DCMN HERZFELD

[1:34 p.m.]

Chairman Goodlatte. The committee will reconvene. When we recessed, we were considering the Watt amendment to the Chaffetz amendment, and the gentleman from Virginia Mr. Scott was seeking recognition, and he is now recognized for 5 minutes on the amendment.

Mr. Scott. Thank you, Mr. Chair.

I rise in support of the Watt amendment and yield such time as he may consume to the gentleman from North Carolina.

Mr. Watt. I thank Mr. Scott for yielding.

And I don't want to belabor this, Mr. Chairman, because I think we can get to a vote fairly quickly, but several people have asked me about a couple of things that I just want to clarify. One question was is this a substantive dispute, or are we arguing about process, and I just want to be clear that while I am concerned about the process by which we are considering both the bill, the amendment, and the Chaffetz-Lofgren amendment, that this is a lot more than process. And I want to just go to through the substantive part of it, because I don't think we should ever vote for or against something based solely on the process that we have gone through, and so I want to be clear.

This is substantive because, number one, we don't understand the full implications of what we are doing. Ms. Lofgren was quite honest when she said that this, according to her, I think, and she would

concede, although some people have tried to kind of soft-pedal this, that this applies to some things other than cell phones. It does apply, I believe, to pads, and I may well agree that that is a good thing to do if we build a record for it, or somebody builds a record for it. Neither the Library of Congress nor this committee has gone there in any hearing. So we don't know the implications of that, and I think we could benefit if we knew the implications of that.

Second, the chair read into the record a letter from one group. There are multiple opinions of the interest groups out there about whether this amendment, the substitute, goes too far or does not go too far. The Business Software Alliance, for example, has indicated verbally to me that they think it goes too far and would like the opportunity to look at it more closely.

And then the third point I want to make is that I think we are about to facilitate an industry in theft. If you unlock a cell phone, it is a piece of equipment. Without a service connected to it, it has no real use. It is like an iPod without music on it. It is a beautiful instrument. So until you connect to your next carrier, the cell phone unlocked is worth nothing.

Now, think about this for a little bit. If I were in the theft market of cell phones, I would go and steal a cell phone, locked cell phone. I wouldn't want to go to the carrier, the next carrier, to unlock it; I would want to go to some fly-by-night person off site somewhere. And I think we are about to facilitate a theft market that we have not anticipated, and that is the kind of thing that I think

we need to be studying the implications of before we take the step.

I think, and the witnesses that came to the hearing when we had a hearing about the original bill confirmed, that we had found the sweet spot, exactly where the sweet spot was, and now a week before we get a substitute, and then a night before we get a substitute to the substitute, and we don't have the implications of what we are doing here.

So those are the reasons I am opposing the Chaffetz amendment and trying to take us back to the original bill, although at some point I may well, if we build the record, support extending this to iPads and other instruments other than cell phones. I just don't think we ought to be doing it now without the benefit of a record.

Ms. Lofgren. Will the gentleman yield?

Mr. Watt. It is Mr. Scott's time, and I am using it all, but if they give him some more.

Chairman Goodlatte. Without objection, the gentleman from Virginia is recognized for an additional minute.

Mr. Conyers. Could I just have a few seconds?

I think that it is important that we recognize the point being made by the gentleman from North Carolina in that we are now going into areas that were not considered in the original contemplation of the bill, which I think all -- most of us were in support of, and it is from that perspective that I believe that both the gentlemen from Virginia and North Carolina are on the right track.

Mr. Scott. Thank you.

I yield to the gentlelady from California.

Ms. Lofgren. Thank you. I thank the gentleman for yielding.

I just wanted to clarify, Mr. Watt mentioned my earlier comments, and as the chairman has pointed out, the underlying bill also includes tablets. So this is not a new thing in terms of the amendment.

And I think it is important to understand what is being protected here. We have a broader argument about section 1201 that I think we are going to get into because we are taking a look at copyright generally and the DMCA and section 1201. But the unlocking, or the locking, I guess, I should say, is not protecting content of any sort. It is protecting access to a network. And I actually think we ought to revisit 1201, and we may disagree on that underlying point, but there is no content being protected here.

It is similar to the case that the court struck down where an encryption was utilized to prevent people from refilling their own ink cartridges, and the court said that is impermissible use of the copyright law because there is no content that is being protected. It is just being used in furtherance of really monopolies. And that is really what I think underlies this issue.

Since the gentleman did mention my name, I wanted to clarify my position. I thank you very much for yielding and yield back.

Chairman Goodlatte. The time of the gentleman has expired.

For what purpose does the gentleman from North Carolina seek recognition?

Mr. Coble. Move to strike the last word, Mr. Chairman.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Coble. And I yield to the chairman for 5 minutes.

Chairman Goodlatte. I thank the gentleman for yielding to me, and I just want to say in response to the gentleman from New York, who earlier in the markup expressed the concern of people trying to circumvent technological protection measures in order to access copyrighted content without authorization, first of all, I agree with and I adopt by reference the observations of the gentlewoman from California, but I also want to say to the gentleman from New York that that is a valid concern.

I don't in any way object to a concern about protecting other people's property, and it is not just a concern for the copyright industry, but for me as well and many members of this committee on both sides of the aisle. I am a strong supporter of copyright, having worked to draft the legislation underlying technological protection measures, and that is why I have ensured that this legislation is strictly limited to cellular devices and access to the networks, as the gentlewoman from California says.

The amendment has nothing to do with copyrighted content, whether that content is an app, a movie, a song or anything else, but if Mr. Nadler or anyone else on the committee has some language to make that even clearer, I would be happy to include it on the way to the floor on this. I would be more than happy to work with the gentleman from Michigan as the ranking member, the gentleman from North Carolina as the ranking member of the subcommittee, the gentleman from New York

who expressed the concern. I am very much sharing that concern, but I do not believe that it is anywhere approaching that in this bill as it is written right now, and I think we are way behind the 21st century if we are not going to recognize that a consumer buying a product and then wanting to switch carriers can't get the phone unlocked the way they want to get it unlocked.

That is what the issue here is before us right now. That is why I am opposed to Mr. Watt's amendment to the amendment and why I support the amendment offered by the gentleman from Utah.

Who seeks recognition?

Mr. Watt. Whoever has the time --

Chairman Goodlatte. The gentleman from Georgia seeks recognition.

Mr. Johnson. Thank you, Mr. Chairman. I will yield.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Johnson. I would yield to the gentleman.

Mr. Watt. I was just going to ask whoever had the time to yield for one -- the chair is talking about cell phones. I just wanted to respond to Ms. Lofgren's point about pads, because it is clear that that is just not accurate.

The original bill gave the responsibility to go back and study this issue to the Librarian of Congress insofar as it extends to pads, but it did not -- and that is the exact point I am making. I may well support that if we build a record for it, but there is nothing -- neither this committee nor the Library of Congress has yet built that record.

I thank the gentleman for yielding time, and I yield.

Mr. Johnson. Thank you, and I might add --

Mr. Coble. How much time --

Chairman Goodlatte. Would the gentleman from Georgia yield on that point?

Mr. Johnson. Yes, I would.

Chairman Goodlatte. Because I think the point the gentleman is making is an interesting one because Mr. Chaffetz's amendment doesn't change that unless the Register of Copyrights makes the change. So there is no change unless the very source that the gentleman cited actually agrees and makes the change.

I thank the gentleman for yielding.

Mr. Johnson. To reclaim my time, would this legislation or this amendment also apply to a situation where a phone is being purchased on an installment basis, or whether the phone is with a lease, is on a lease with the option to purchase it at a later point? If someone obtains the phone from a rent-to-own facility, would it be covered? These are questions that --

Chairman Goodlatte. Would the gentleman yield?

Mr. Johnson. Could proper --

Chairman Goodlatte. If the gentleman would yield?

Mr. Johnson. Certainly I would yield.

Chairman Goodlatte. I thank the gentleman for yielding.

It is a good question. It can only be unlocked in accordance with the terms and conditions of the contract that the individual has with

either the phone company they are parting from or the phone company they are moving to in offering the service.

It is a way for somebody who owns a phone to say, you know what? I don't like this service anymore, I am going to switch over to a new service. But we are not going to interrupt and break the contract. All we are saying is when you make the change to the new service, you can get it unlocked so you can utilize your property with the new telephone service.

Mr. Johnson. I would yield to the gentleman from North Carolina.

Mr. Coble. I will reclaim and yield back.

Mr. Johnson. No, I think I have the time.

Mr. Watt. Mr. Johnson has the time.

Mr. Coble. I stand corrected.

Mr. Watt. Would the gentleman yield?

Mr. Johnson. I do.

Mr. Watt. Let me just go directly at the point the chair made, that this does the same thing as the original bill, which is just not the case. If you look at the substitute, it strikes everything down through page 2, line 21, which is the rulemaking that was required by the Library of Congress to get to this whole iPad issue, and it does not -- the chair is just not correct that we -- that anybody has looked at that. The committee has not looked at it, nor the Library of Congress has looked at it, and this is a change in that process, and that is -- the problem, the reason we are bickering about this is that when we get an amendment the night before -- amendment in the nature

of a substitute the night before a markup that is at odds with what we had been proceeding on, nobody has really looked at the implications of it. And obviously the chairman doesn't know what the implications of it are either, because he is saying that this language about rulemaking by the Librarian of Congress is still in the bill. Under this substitute it is not still in the bill.

Mr. Conyers. Would the gentleman from Georgia yield?

Mr. Johnson. Please.

Mr. Conyers. Thank you very much.

I think this discussion underscores the necessity for a hearing on the subject. And I am hoping that this very precise debate that is going on now would be the subject of a hearing, and I hope the chairman of the committee would agree with the ranking member that we might consider this as soon as practicable.

And I yield back. Thank you.

Chairman Goodlatte. The time of the gentleman has expired.

Mr. Johnson. Mr. Chairman, may I --

Chairman Goodlatte. For what purpose does the gentleman from South Carolina seek recognition?

Mr. Gowdy. Move to strike the last word.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Gowdy. Thank you, Mr. Chairman.

It is my pleasure to yield to the gentleman from Utah, the author of the underlying amendment, Mr. Chaffetz.

Mr. Chaffetz. Thank you. I wanted to respond to some of the

comments that have been made. This process of the introduction of the bill, the manager's amendment, the amendment that the gentlewoman from California Ms. Lofgren and I are introducing this amendment, the spirit of which this whole thing has moved forward is consistent with how we have done things in regular order. To suggest that there has been done anything in a nefarious or inconsistent manner with how this committee is used to operating in an open and transparent way would be, in my opinion, totally inaccurate. I think the words of one gentleman was essentially a conduit for a, quote, "industry of theft" I take great exception to.

This is not a gateway for theft. For anybody and everybody who is involved in the tech industry, for anybody and everybody who understands more about how these phones operate, how technology works, how this thing works, which is so much more than probably anybody else on this panel, it is offensive to a lot of people to say that this bill, and particularly my amendment, would be an instrument or a tool as an industry for theft.

You are talking about your mobile phone; your phone, your phone. Could I, should I be allowed to have my wife unlock my phone if she knows how to do it? Of course. But to suggest that this is an industry of theft, this is just an instrument.

I have got to tell you, there is a lot of pieces of technology out there, a lot of phones that are out there that don't necessarily have to have content on it from the music industry or somewhere else. Do we have to work to help protect those folks? Absolutely. But as

the chairman has repeatedly pointed out, this has nothing to do with content. This has ability to unlock your phone to change carriers.

Where is the green hat that we normally see on the other side of the aisle? How many millions of phones are out there that are in perfectly good working shape that should be just used with another carrier? What you are advocating for is you are going to have to -- if you change your carrier, you are going to have to go get a new phone.

Something like 91 percent of Americans now have a mobile phone, 91 percent. There are more mobile phones in this country than there are toilets. But if that toilet doesn't work, you are saying, oh, no, you can't touch it, you can't touch it, you have to call the person that manufactured that rather than get your local plumber or, in my case, get my wife, who actually fixes the toilets in our house and does a darn good job.

It is ridiculous to suggest, and it is offensive to suggest that this is going to create an industry of theft. We are talking about unlocking your mobile phone. This is not --

Mr. Watt. Will the gentleman from South Carolina yield?

Mr. Chaffetz. No, I will not. This is not very difficult.

Mr. Watt. I am asking the gentleman from South Carolina to yield because --

Mr. Chaffetz. It is absurd. It is my time. It is my time. It is absurd that you have created such a --

Mr. Watt. I just don't want him to have a heart attack down there by misrepresenting what I have said.

Mr. Chaffetz. With all due respect, it is my time.

Mr. Watt. Would the gentleman from South Carolina yield?

Mr. Chaffetz. No, I will not. It is my --

Chairman Goodlatte. The gentleman from South Carolina has the time.

Mr. Gowdy. And I am going to continue to yield to Mr. Chaffetz if he will not invoke his wife's name and what she does around the house anymore.

Mr. Chaffetz. It is your mobile phone. It is your phone. You should have the right and the ability. Nobody, I think, is taking issue with the idea that we should have the right to unlock the phone. You have been concerned about the process. But to say this is a gateway to an industry of theft is offensive. It is ridiculous. It shows a degree of not understanding how these pieces of technology work.

I reject your amendment. I think it unnecessarily limits the number of people that can be involved in helping people do what we think is ultimately a good thing. I appreciate my work with Ms. Lofgren. I will continue to work with her and others on this issue, but let us unlock these phones.

Yield back.

Mr. Conyers. Mr. Chairman --

Mr. Watt. Would the gentleman from South Carolina yield?

Chairman Goodlatte. The gentleman from --

Mr. Watt. Would the gentleman from South Carolina, who still has the time, yield?

Mr. Gowdy. I would be happy to yield whatever time is left to the gentleman from North Carolina. I see the yellow light on, but --

Chairman Goodlatte. It is 11 seconds. But I think the gentleman from New York is seeking recognition. I am sure he would be willing to yield more time.

Mr. Watt. All right. Well, would the gentleman from New York --

Mr. Jeffries. I am going to yield to the gentleman from North Carolina.

Mr. Watt. All right.

Chairman Goodlatte. The gentleman from New York is recognized for 5 minutes.

Mr. Watt. I want to take this unique opportunity to agree with Mr. Chaffetz. If I were suggesting that this was creating an industry of theft, it would be offensive, but I didn't want him to have a heart attack misrepresenting what I had suggested.

Think about it. If I were stealing a phone, would I rather have a phone that I could take to some third-party jackleg and get it unlocked, or would I rather have to take it to the next service provider?

Mr. Chaffetz. Will the gentleman yield?

Mr. Watt. I have not suggested --

Mr. Chaffetz. Will the gentleman yield on that point?

Mr. Watt. Wait a minute. For 5 minutes I sat here and tried to get you to yield. You didn't even have the time. Mr. Jeffries has the time now. I am just trying to clarify what I did say.

Mr. Bachus. Will the gentleman yield?

Mr. Watt. So I was not indicating anything about creating an industry of theft, but anybody in this room would tell you if I were in the theft business, I would rather be able to take my locked phone to somebody down on the corner who could unlock it rather than to take it to the next carrier.

That is all I said, and so you and I actually are in agreement with each other. If I had said what you said I said, it should be offensive.

Mr. Bachus. Will the gentleman yield?

Mr. Chaffetz. Will the gentleman yield? Will the gentleman yield?

Mr. Watt. Would you yield to Mr. Chaffetz now for me so I can --

Mr. Jeffries. I yield.

Mr. Chaffetz. Thank you, thank you, and I appreciate you saying that.

We will roll back the tape. To answer your point, if somebody is brazen enough to steal the phone, do you think they are going to say, oh, goodness, I can't unlock it because that is against the law? The comparison is absurd, to me.

Mr. Watt. Well, would the gentleman yield? This is getting so absurd that I am not even going to engage in it, because every time I say something, then he takes it to another level of absurdity because I never said that, either.

Yeah, you are right. You and I have got a lot more in common. I am just trying to figure out what we should be doing here, Mr.

Chaffetz. I started my comments by saying, if this was just about process, I wouldn't vote against your amendment. I don't think we ever ought to vote against something just because we don't like the process by which we are considering it.

This is a substantive issue, and I don't think we have studied it, nor has the Librarian of Congress studied it, and you all keep saying, okay, it is just about cell phones. Now we have debunked that notion. Then you said, oh, well, it is in my bill, that it is not about -- that it is only about cell phones to us. In the original bill that I passed, that was not in the original bill.

This is a substantively different piece of legislation than we started off with, which was a totally bipartisan product, and had we moved the original bipartisan product, this markup on this bill would have been finished within 10 minutes after the chairman's opening statement and the ranking member's opening statement because we would have had unanimous agreement on it.

I thank the gentleman for yielding time.

Ms. Lofgren. Would the gentleman yield?

Mr. Jeffries. Certainly I yield whatever time I have remaining.

Ms. Lofgren. I will just say something quickly. You know, I think that we are making too much of this, the difference, because really the idea is you can unlock your device to choose your network. That is all it is. And there is a network on my iPad, there is a network on my iPhone, and what we are asking to do is to allow consumers who purchased an item to be able to choose their network. That is it. It

is the same in both cases. And I think it is simple, but I just thought I should say that, and I thank the gentleman for yielding.

Chairman Goodlatte. The time of the gentleman has expired. The question occurs on the amendment offered by the gentleman from North Carolina Mr. Watt to the amendment offered by the gentleman from Utah Mr. Chaffetz.

All those in favor, respond by saying aye.

Those opposed, no.

In the opinion of the chair, the noes have it, and the amendment is not agreed to.

Mr. Watt. Ask for a recorded vote.

Chairman Goodlatte. A recorded vote is requested, and the clerk will call the roll.

Ms. Deterding. Mr. Goodlatte?

Chairman Goodlatte. No.

Ms. Deterding. Mr. Goodlatte votes no.

Mr. Sensenbrenner?

[No response.]

Ms. Deterding. Mr. Coble?

[No response.]

Ms. Deterding. Mr. Smith of Texas?

Mr. Smith of Texas. No.

Ms. Deterding. Mr. Smith of Texas votes no.

Mr. Chabot?

[No response.]

Ms. Deterding. Mr. Bachus?

Mr. Bachus. No.

Ms. Deterding. Mr. Bachus votes no.

Mr. Issa?

[No response.]

Ms. Deterding. Mr. Forbes?

[No response.]

Ms. Deterding. Mr. King?

Mr. King. No.

Ms. Deterding. Mr. King votes no.

Mr. Franks?

Mr. Franks. No.

Ms. Deterding. Mr. Franks votes no.

Mr. Gohmert?

[No response.]

Ms. Deterding. Mr. Jordan?

Mr. Jordan. No.

Ms. Deterding. Mr. Jordan votes no.

Mr. Poe?

[No response.]

Ms. Deterding. Mr. Chaffetz?

Mr. Chaffetz. No.

Ms. Deterding. Mr. Chaffetz votes no.

Mr. Marino?

Mr. Marino. No.

Ms. Deterding. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

Ms. Deterding. Mr. Gowdy votes no.

Mr. Amodei?

[No response.]

Ms. Deterding. Mr. Labrador?

[No response.]

Ms. Deterding. Mr. Farenthold?

[No response.]

Ms. Deterding. Mr. Holding?

Mr. Holding. No.

Ms. Deterding. Mr. Holding votes no.

Mr. Collins?

Mr. Collins. No.

Ms. Deterding. Mr. Collins votes no.

Mr. DeSantis?

Mr. DeSantis. No.

Ms. Deterding. Mr. DeSantis votes no.

Mr. Smith of Missouri?

[No response.]

Ms. Deterding. Mr. Conyers?

Mr. Conyers. Aye.

Ms. Deterding. Mr. Conyers votes aye.

Mr. Nadler?

Mr. Nadler. Aye.

Ms. Deterding. Mr. Nadler votes aye.

Mr. Scott?

Mr. Scott. Aye.

Ms. Deterding. Mr. Scott votes aye.

Mr. Watt?

Mr. Watt. Aye.

Ms. Deterding. Mr. Watt votes aye.

Ms. Lofgren?

Ms. Lofgren. No.

Ms. Deterding. Ms. Lofgren votes no.

Ms. Jackson Lee?

[No response.]

Ms. Deterding. Mr. Cohen?

[No response.]

Ms. Deterding. Mr. Johnson?

Mr. Johnson. Aye.

Ms. Deterding. Mr. Johnson votes aye.

Mr. Pierluisi?

[No response.]

Ms. Deterding. Ms. Chu?

[No response.]

Ms. Deterding. Mr. Deutch?

Mr. Deutch. Aye.

Ms. Deterding. Mr. Deutch votes aye.

Mr. Gutierrez?

[No response.]

Ms. Deterding. Ms. Bass?

[No response.]

Ms. Deterding. Mr. Richmond?

[No response.]

Ms. Deterding. Ms. DelBene?

Ms. DelBene. No.

Ms. Deterding. Ms. DelBene votes no.

Mr. Garcia?

[No response.]

Ms. Deterding. Mr. Jeffries?

Mr. Jeffries. Aye.

Ms. Deterding. Mr. Jeffries votes aye.

Chairman Goodlatte. The gentleman from North Carolina?

Mr. Coble. No.

Ms. Deterding. Mr. Coble votes no.

Chairman Goodlatte. The gentleman from Virginia?

Mr. Forbes. No.

Ms. Deterding. Mr. Forbes votes no.

Chairman Goodlatte. The gentleman from California?

Mr. Issa. No.

Ms. Deterding. Mr. Issa votes no.

Chairman Goodlatte. The gentlewoman from California?

Ms. Chu. Aye.

Ms. Deterding. Ms. Chu votes aye.

Chairman Goodlatte. Are there Members who have not voted who wish to vote?

The clerk will report.

Ms. Deterding. Mr. Chairman, 8 Members voted aye, 17 Members voted nay.

Chairman Goodlatte. And the amendment is not agreed to.

The question occurs on the amendment offered by the gentleman from Utah Mr. Chaffetz.

All those in favor, respond by saying aye.

Those opposed, no.

In the opinion of the chair, the ayes have it, and the amendment is agreed to.

Are there further amendments?

There are no further amendments to the amendment, and the question is on the manager's amendment.

Those in favor will say aye.

Those opposed, no.

In the opinion of the chair, the ayes have it. The ayes have it, and the amendment is agreed to.

A reporting quorum being present, the question is on the motion to report the bill, H.R. 1123, as amended, favorably to the House.

Those in favor will say aye.

Those opposed, no.

In the opinion of the chair, the ayes have it, and the bill, as

amended, is ordered reported favorably. Members will have 2 days to submit views. Without objection, the bill will be reported as a single amendment in the nature of a substitute, incorporating all adopted amendments, and staff is authorized to make technical and conforming changes.

Chairman Goodlatte. Pursuant to notice, I now call up H.R. 2542 for purposes of markup and move that the committee report the bill favorably to the House.

The clerk will report the bill.

Ms. Detending. H.R. 2542, to amend chapter 6 of title 5, United States Code, commonly known as the Regulatory Flexibility Act --

Chairman Goodlatte. Without objection, the bill is considered as read and open for amendment at any point.

[The information follows:]

***** INSERT 2-1 *****

Chairman Goodlatte. I will begin by recognizing myself for an opening statement.

I want to thank Subcommittee Chairman Bachus for his introduction of this important bipartisan bill and his work to report it promptly from the subcommittee to the full committee.

Poll after poll demonstrates that the level of Federal regulation coming from Washington is at the top of the list of obstacles faced by America's small businesses, our top job creators. Congress can and should act to free small businesses of the burdens and waste associated with excessive Federal regulations. Simply put, we cannot escape from America's virtual jobs depression until we help America's small businesses escape from unnecessary hurdles to the creation of new jobs. That is why prompt passage of this legislation is so important.

The Regulatory Flexibility Improvements Act will, for the first time in over 15 years, overhaul the laws that govern how Federal regulators should consider and minimize the adverse impacts of new regulations on small businesses. Primarily the bill reinforces the Regulatory Flexibility Act of 1980 and the Small Business Regulatory Enforcement Fairness Act of 1996. It only requires agencies to do what current law tries to achieve and what common sense dictates should be done. But current law is beset by loopholes, and these loopholes must be closed. That is what the Regulatory Flexibility Improvements Act at long last does.

This bill is a timely and logical step to protect small businesses from overregulation. It recognizes that economic growth ultimately

depends on job creators, not regulators. The bill represents a critical means to convert that recognition into reality, and I urge all Members to support its passage, and now recognize our ranking member, the gentleman from Michigan Mr. Conyers, for his opening statement.

Mr. Conyers. Ladies and gentlemen of the committee and Mr. Chairman, why is it that leading consumer, labor, and environmental organizations have expressed concerns about what they call a dangerous measure; namely, the Regulatory Flexibility Improvements Act of 2013? The AFL-CIO opposes this measure; the American Lung Association opposes this measure; the Consumer Federation of America opposes this measure; the Natural Resources Defense Council, the Public Citizen, United Autoworkers, and the National Women's Law Center and others, because they think that under the guise of protecting small businesses from burdensome regulatory requirements, the so-called Regulatory Flexibility Improvements Act is yet another attempt to prevent regulatory agencies from promulgating regulations that protect the health and safety of Americans.

This is not a new attempt on the part of conservatives. They are also attempting to overwhelm regulatory agencies with unnecessary costs and costly analyses, and give well-financed businesses and antiregulatory organizations greater opportunities to thwart the rulemaking process. This explains why the administration threatened to veto similar legislation considered in the last Congress.

So let us not have anyone fooled by what is underlying the

objectives of this measure. The administration stated that the bill would seriously undermine the ability of agencies to execute their statutory mandate and impede the ability of agencies to provide the public with basic protections. And so one of my concerns about the bill is that it could jeopardize America's health and safety. Our citizens' health and safety would be jeopardized by this legislation.

Our Federal agencies are charged with promulgating regulations that impact virtually every aspect of our lives, including the air we breathe, the water we drink, the food we eat, the cars we drive, and the play toys that we give our children. Small businesses, like all businesses, provide service and goods that also affect our lives, and so it makes no difference to a victim who breathes contaminated air or drinks poison water whether the hazards were caused by small or large business.

But the far-reaching legislation before us today would undermine the ability of Federal agencies to quickly respond to emergent health and safety concerns. Section 5 of the bill especially repeals the authority under the current law that allows an agency to waive or delay the initial analyses required under the Regulatory Flexibility Act in response to an emergency that makes compliance or timely compliance impracticable.

Instead the bill empowers the Chief Counsel for Advocacy to issue regulations about how agencies in general should comply with the Act. So if there is a widespread E. coli outbreak or an imminent environmental disaster that could be quickly addressed through

regulation, this bill says don't worry, don't rush, let us have the Chief Counsel for Advocacy decide. And so to address this major problem with H.R. 2542, it is my intention to offer an amendment striking this provision of the bill during today's markup.

Another problem is that it will waste millions of taxpayer dollars by forcing agencies to redirect their scarce resources to meet the bill's burdensome compliance requirements.

A further concern I have about the bill is that it will result in paralysis by analysis and give corporate interests too much control over the rulemaking process. There are other ways. But glaringly missing from the bill is any requirement that agencies consider the benefits of regulations and how they affect the public interests.

This is a very harmful legislative proposal that puts health and safety of all Americans at risk, while adding little or nothing to the efficiency or cost-effectiveness of agency rulemaking, and so accordingly I urge the members of this committee to oppose H.R. 2542.

I thank the chairman for the time.

Chairman Goodlatte. Thank you, Mr. Conyers, and I would now like to recognize the chairman of the Subcommittee on Regulatory Reform, Commercial and Administrative Law, and the sponsor of this legislation, the gentleman from Alabama Mr. Bachus, for his opening statement.

Mr. Bachus. I thank the chairman, and, you know, the ranking member, actually I will agree with him. I think he went right to the essence of the argument for and against this legislation, and what he said was, you know, RFA requires the agencies to go through a process

of consulting and analyzing these regulations and seeing what effect they have on the economy and on those who have to live with the regulations, and that is the law.

I mean, this started out under President Carter, who saw the need to slow up, of all people. You might be amazed. President Clinton, President Bush, Bush 1 and 2, and President Obama has just talked about the amount of regulations on small businesses.

And what the ranking member Mr. Conyers said is, and I am pretty much quoting, basically the agency can ignore the Regulatory Flexibility Improvements Act if they need to issue regulations in an emergency. In other words, if the agency said, we need to get this regulation out, and, as Mr. Conyers said, they may say, because of health reasons we have got to get this thing out, or because of safety reasons we have got to get it out, or environmental, health, whatever, well, it might amaze the Members of this body to know that the agencies are basically finding that everything is an emergency, and they simply declare an emergency and pass these regulations, and they ignore the law. And I will go into that in the second part of this, if anybody wants to discuss the percentages, but it is just amazing that these agencies in over half the situations find out that this is an emergency.

So really the choice here is do you want to err on a deliberative, thoughtful process where all the stakeholders are consulted, or do you want to get this stuff out of the door, do you want to get these regulations on the books as soon as possible?

And as we were accused at the subcommittee hearing and again

today, Republicans are just trying to slow down the regulatory process. Well, we plead guilty. We are. We are trying to slow down the regulatory process because we believe after over 200 years that -- and the tremendous expansion of Federal rules and regulations -- that there are too many regulations, and that this idea that if we need -- if another regulation is needed, that in over 60 percent of the chances, it is some emergency where we don't have to go follow the law, the law that has existed for decades, we will just declare an emergency and pass it, and the American people just will accept it.

But, you know, this is a government of the people, by the people, and for the people, and to say we don't have time to consult the people, they shouldn't participate in this process, to me, is the opposite of what a democracy ought to be.

I don't know anybody that disagrees, whether you are an economist, a Member of Congress or the general public, I think one thing we have all heard probably 1,000 times is that small businesses create most of the new jobs in America, and most of the growth in job creation is within new or small businesses. I mean, small business is the background -- I mean, it is the backbone of America. The President has just talked about his priority is going to be job creation. Well, if his priority is job creation, then his priority is small business, and that is where jobs are created. It is not the government that creates jobs, it is business. And, in my view, the health of small businesses is one of the most important issues confronting our country today.

Small businesses are the source of two-thirds of the new jobs created, or that can be created, and while I am concerned about many economic issues, it is also my view that government regulations have had a disproportionate negative impact on businesses. None of us are against rules and regulations, but my gosh, we ought to at least say if we don't have a regulation that we suddenly need, it is not an emergency to consult with small businesses, to take a moment and consult with the people that are going to have to comply with those regulations. Haste makes waste. That ought to just be something we have been taught since we were children.

According to the Small Business Administration, businesses with fewer than 20 employees spend an average 36 percent more per employee than large firms to comply with the Federal regulations existing today.

My time has expired, but I will go further if appropriate.

Chairman Goodlatte. Without objection, the gentleman is recognized for 1 additional minute to wrap up.

Mr. Bachus. Let me just say this: I think Mr. Conyers correctly stated this. The law today says if you are going to -- if an agency is going to pass a rule or regulation, they have to go through a process. They have to put things out for consideration, for comment unless they deem it an emergency. In that case they can basically go around this whole process, this whole delivery process, and he thinks they ought to be able to continue to do this, even though in probably 60 percent of the cases they are not going through the process. And I think most of us, including hundreds of small business associations who support

this bill, would say go through the process. Talk to the people that are affected before you put a rule or regulation on.

I appreciate the 1 minute.

Chairman Goodlatte. The chair thanks the gentleman for his opening statement.

Are there amendments to H.R. 2542?

Mr. Conyers. Mr. Chairman, I have --

Chairman Goodlatte. For what purpose does the gentleman from Michigan seek recognition?

Mr. Conyers. I have an amendment at the desk and ask that it be reported.

Chairman Goodlatte. The clerk will report the amendment.

Ms. Deterding. Amendment to H.R. 2542 offered by Mr. Conyers of Michigan. Beginning on page 14, line --

Chairman Goodlatte. Without objection, the amendment will be considered as read.

[The amendment of Mr. Conyers follows:]

***** COMMITTEE INSERT *****

Chairman Goodlatte. And the gentleman is recognized for 5 minutes on his amendment.

Mr. Conyers. Mr. Chairman and members of the committee, I seek to repeal section 5, which is a repeal of waiver and delay authority, additional powers of the Chief Counsel for Advocacy.

Now, section 5 contains one of the worst provisions of this measure, as it could have the eventual effect of undermining the ability of agencies to quickly respond to emergent health and safety risks, and so this section repeals the authority under current law that allows an agency to waive or delay the initial analysis required under the Regulatory Flexibility Act, quote, "in response to an emergency that makes compliance or timely compliance impracticable," end quotation. Instead, the bill empowers the Chief Counsel for Advocacy to issue regulations about how agencies in general should comply with the act.

Now, that ought to throw up some warning signals to most everyone on the committee. Thus, if there is a looming national pandemic or environmental disaster that could be mitigated through regulation, the bill we are examining now prevents agencies from responding to such emergencies without first having to go through the arduous and time-consuming task of review and analysis. This requirement in the bill is not only wrong-headed, but jeopardizes the health and safety, clearly, of many Americans, maybe all Americans.

And so what my amendment simply restores is a critical exception that allows agencies to quickly respond to emergencies without being hampered or second-guessed by others.

I don't think that completely clears up all the problems of the legislation, but this is so obviously poorly thought out that I would urge my colleagues, whether they support or oppose the bill itself, to join me in eliminating section 5 of H.R. 2542.

And I return the balance of my time.

Chairman Goodlatte. The chair thanks the gentleman.

And for what purpose does the gentleman from Alabama seek recognition?

Mr. Bachus. Mr. Chairman, to oppose the amendment.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Bachus. Thank you.

Mr. Chairman and Members, as I talked in my opening statement, I talked about that these agencies have taken loopholes, which were designed for just such an emergency as Mr. Conyers mentioned, and they have declared everything to be an emergency. They have declared everything to be urgent. The majority of the time they ignore these rules, and this amendment strikes the very section that the intent is to close this loophole where everything is an emergency.

One of the key failings of the existing law is that it allows different agencies to interpret differently the terms of the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act. This allows agencies, as I said, to find loopholes at their pleasure and simply evade the law. This bill remedies this defect by granting the SBA's Office of Chief Counsel for Advocacy authority to write regulations to govern the agency's compliance with RFA and

SBREFA. The bill also grants the Office of Chief Counsel authority to intervene in agency adjudications and offer comments in agency notice-and-comment proceedings. These reforms will at last assure consistent compliance with RFA and SBREFA across the entire Federal Government.

This amendment would defeat that purpose and restore the agencies the ability to use a loophole to suit their whims. America's small business job creators deserve better than that.

I want to quote someone who we all know, at least if you are a new Member, you may not recognize this name, but this is Juanita Millender-McDonald, a Democratic Member who served from California. She made this statement when we were considering legislation to close this loophole which the ranking member wants to preserve. Here is her statement: The IRS has generally avoided the requirements of SBREFA, even though the law was in part specifically written to address IRS compliance with RFA.

Now, that is Juanita Millender-McDonald, a member of the Democratic Conference, where she said, you know, we actually -- SBREFA was -- part of the purpose was to address IRS declaring everything an emergency and forcing these rules and regulations down our throats, and we passed it for that very purpose, and yet the IRS continues to declare emergencies and avoid the law. Quote, "Even though the law was in part specifically written to address IRS compliance with RFA, IRS has generally avoided the requirement." That is what we are here today. We want to say, hey, quit ignoring the law.

Mr. Conyers. Would the gentleman yield?

Mr. Bachus. I will.

I want to make one other statement. And, you know, Ranking Member Conyers, I think you know this, but in the past, and maybe this is the partisan divide, in the past a number of Democrats have supported this type of legislation. In fact, there is four original cosponsors on the bill we are considering today, and among them is Congressman Jim Matheson, Democrat, who is the chairman -- the ranking member of the Small Business Committee; and Congressman John Barrow along with Lamar Smith, who is the former Judiciary Committee chairman; and Sam Graves, who is the Small Business Committee chairman. So two of the four cosponsors of this legislation are Democratic Members. But in the past, people as Juanita Millender-McDonald supported this legislation. In the past many of the Democratic members of the Judiciary Committee have criticized these loopholes. President Obama even talked about the need to slow down these regulations. So has every President in the last 24 years.

My time has expired.

Chairman Goodlatte. The chair thanks the gentleman.

The question occurs on the amendment.

Mr. Conyers. Can I get time?

Chairman Goodlatte. Who seeks recognition?

For what purpose does the gentleman from Virginia seek recognition?

Mr. Scott. Move to strike the last word.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Scott. I yield to Mr. Conyers.

Mr. Conyers. Thank you for yielding to me, Mr. Scott.

I think what my friend Mr. Bachus is confusing is that this is a limited waiver of the law, and it is not a loophole. It is to temporarily delay completion or some of the requirements. And what we are not doing here is complicating the matter by trying to limit the whole application. So this repeal is way broader in your amendment than the one that is described and permitted in the present law.

So what we are trying to do here is not support an entire loophole of the law; what we are doing is trying to preserve a limited waiver of the law. And for that reason I am unable to support the provision, the amendment that you put forward, and I hope that our colleagues will vote against it.

And I yield back the balance of my time, Mr. Chairman.

Chairman Goodlatte. The question occurs on the amendment offered by the gentleman from Michigan.

All those in favor, respond by saying aye.

Those opposed, no.

In the opinion of the chair, the noes have it, and the amendment is not agreed to.

Mr. Conyers. Could we get a record vote on that?

Chairman Goodlatte. A recorded vote is requested, and the clerk will call the roll.

RPTS MCKENZIE

DCMN HERZFELD

[3:35 p.m.]

Ms. Deterding. Mr. Goodlatte?

Chairman Goodlatte. No.

Ms. Deterding. Mr. Goodlatte votes no.

Mr. Sensenbrenner?

Mr. Sensenbrenner. No.

Ms. Deterding. Mr. Sensenbrenner votes no.

Mr. Coble?

[No response.]

Ms. Deterding. Mr. Smith of Texas?

Mr. Smith of Texas. No.

Ms. Deterding. Mr. Smith of Texas votes no.

Mr. Chabot?

[No response.]

Ms. Deterding. Mr. Bachus?

Mr. Bachus. No.

Ms. Deterding. Mr. Bachus votes no.

Mr. Issa?

[No response.]

Ms. Deterding. Mr. Forbes?

[No response.]

Ms. Deterding. Mr. King?

Mr. King. No.

Ms. Deterding. Mr. King votes no.

Mr. Franks?

Mr. Franks. No.

Ms. Deterding. Mr. Franks votes no.

Mr. Gohmert?

[No response.]

Ms. Deterding. Mr. Jordan?

[No response.]

Ms. Deterding. Mr. Poe?

[No response.]

Ms. Deterding. Mr. Chaffetz?

Mr. Chaffetz. No.

Ms. Deterding. Mr. Chaffetz votes no.

Mr. Marino?

Mr. Marino. No.

Ms. Deterding. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

Ms. Deterding. Mr. Gowdy votes no.

Mr. Amodei?

[No response.]

Ms. Deterding. Mr. Labrador?

[No response.]

Ms. Deterding. Mr. Farenthold?

Mr. Farenthold. No.

Ms. Deterding. Mr. Farenthold votes no.

Mr. Holding?

Mr. Holding. No.

Ms. Deterding. Mr. Holding votes no.

Mr. Collins?

Mr. Collins. No.

Ms. Deterding. Mr. Collins votes no.

Mr. DeSantis?

[No response.]

Ms. Deterding. Mr. Smith of Missouri?

Mr. Smith of Missouri. No.

Ms. Deterding. Mr. Smith of Missouri votes no.

Mr. Conyers?

Mr. Conyers. Aye.

Ms. Deterding. Mr. Conyers votes aye.

Mr. Nadler?

Mr. Nadler. Aye.

Ms. Deterding. Mr. Nadler votes aye.

Mr. Scott?

Mr. Scott. Aye.

Ms. Deterding. Mr. Scott votes aye.

Mr. Watt?

Mr. Watt. Aye.

Ms. Deterding. Mr. Watt votes aye.

Ms. Lofgren?

Ms. Lofgren. Aye.

Ms. Deterding. Ms. Lofgren votes aye.

Ms. Jackson Lee?

[No response.]

Ms. Deterding. Mr. Cohen?

[No response.]

Ms. Deterding. Mr. Johnson?

Mr. Johnson. Aye.

Ms. Deterding. Mr. Johnson votes aye.

Mr. Pierluisi?

[No response.]

Ms. Deterding. Ms. Chu?

Ms. Chu. Aye.

Ms. Deterding. Ms. Chu votes aye.

Mr. Deutch?

[No response.]

Ms. Deterding. Mr. Gutierrez?

[No response.]

Ms. Deterding. Ms. Bass?

Ms. Bass. Aye.

Ms. Deterding. Ms. Bass votes aye.

Mr. Richmond?

[No response.]

Ms. Deterding. Ms. DelBene?

Ms. DelBene. Aye.

Ms. Deterding. Ms. DelBene votes aye.

Mr. Garcia?

Mr. Garcia. Aye.

Ms. Deterding. Mr. Garcia votes aye.

Mr. Jeffries?

[No response.]

Chairman Goodlatte. The gentleman from North Carolina?

Mr. Coble. No.

Ms. Deterding. Mr. Coble votes no.

Chairman Goodlatte. The gentleman from Idaho?

Mr. Labrador. No.

Ms. Deterding. Mr. Labrador votes no.

Chairman Goodlatte. The gentleman from Virginia?

Mr. Forbes. No.

Ms. Deterding. Mr. Forbes votes no.

Chairman Goodlatte. The gentleman from Texas?

Mr. Gohmert. No.

Ms. Deterding. Mr. Gohmert votes no.

Chairman Goodlatte. The gentleman from Puerto Rico?

Mr. Pierluisi. Yes.

Ms. Deterding. Mr. Pierluisi votes aye.

Chairman Goodlatte. Are there other Members who have not voted who wish to vote?

The clerk will report.

Ms. Deterding. Mr. Chairman, 11 Members voted aye; 17 Members voted nay.

Chairman Goodlatte. And the amendment is not agreed to.

For what purpose does the gentleman from New York seek recognition?

Mr. Nadler. I have an amendment at the desk.

Chairman Goodlatte. The clerk will report the amendment.

Ms. Deterding. Amendment to H.R. 2542 offered by Mr. Nadler of New York. Page 11 --

Chairman Goodlatte. Without objection, the amendment will be considered as read.

[The amendment of Mr. Nadler follows:]

***** COMMITTEE INSERT *****

Chairman Goodlatte. And the gentleman is recognized for 5 minutes on his amendment.

Mr. Nadler. Thank you, Mr. Chairman.

My amendment would require agencies to assess the direct and indirect benefits as well as costs of proposed rules. Section 2 of the bill would task agencies with the duty to examine the indirect economic effects of proposed regulations on small businesses. My amendment would make clear that if the bill demands that agencies engage in such type of highly speculative analysis, then at a minimum it should also specify that indirect benefits of a proposed rule should also be considered.

Benefits consistently outweigh the costs of regulation, but the bill ignores that fact. This amendment corrects that deficiency of the bill. But regardless of whether you agree with that or not, regardless of whether you think that benefits consistently outweigh the costs of regulations or not, if we are going to require indirect effects to be monitored, and if we are going to have any kind of intelligent cost-benefit analysis as to the effect of the regulations, then it should be indirect costs as well as indirect benefits.

Now, I may oppose the bill because I think that it is too speculative to go after indirect economic effects and too burdensome, but if you are going to do it, it should be even-handed. That is to say, you should look both at costs and at benefits and weigh them relatively. So this amendment simply clarifies that the bill refers and mandates a study of indirect benefits as well as indirect costs

so you can do an intelligent assessment of the relative costs and benefits. I urge adoption of the amendment.

Mr. Bachus. Mr. Chairman?

Chairman Goodlatte. For what purpose does the gentleman from Alabama seek recognition?

Mr. Bachus. I oppose the amendment.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Bachus. What the gentleman from New York says seems very logical, and that is that you ought to consider the benefits. But, in fact, agencies do that every day. They talk about the benefits. In fact, they wouldn't issue these regulations if they didn't think it was beneficial.

So there is absolutely nothing in this legislation that prevents benefits from being considered. In fact, if you pay any attention to what the agencies are doing, they have been considering both direct and indirect economic benefits, and have been doing that for years.

Mr. Nadler. Would the gentleman yield?

Mr. Bachus. They have refused, on the other hand -- and we had witnesses that testified to this, including the Chamber of Commerce. Although they have cited direct and indirect benefits, and cited on some occasions direct economic costs, they have failed on almost every case to calculate indirect financial costs or economic costs.

Mr. Nadler. Would the gentleman yield?

Mr. Bachus. Mr. Nadler, let me say this: You will agree, I think -- and I will yield you 15 seconds -- but you will agree that

they issue their estimates of benefits all the time; do you not?

I yield 15 seconds.

Mr. Nadler. Well, I do agree that the agencies that formulate rules look at benefits, obviously. Whether they look at indirect benefits, I don't know. Sometimes they do, probably; sometimes they don't.

And, frankly, what you just said doesn't disagree. I am skeptical of the bill as a whole in terms of how you can estimate indirect benefits and costs. But put that aside, if you are mandating that they have to look at indirect effects, you ought to mandate both. You are saying they do it anyway. Maybe.

Mr. Bachus. They have been doing that.

Mr. Nadler. In which case there is no harm to say, do what you have been doing, but if you haven't done it, do it.

If you are going to pass a bill that says you must look at the indirect effects, you should say, look at the indirect costs, look at the indirect benefits. If they are already doing it, it doesn't matter. If they are not already doing it, then it helps.

Mr. Bachus. Well, let me say this: The purpose of the amendment is to require agencies to identify the direct and indirect benefits of these proposed new rules, and the amendment misses the point. I mean, the Regulatory Flexibility Act and SBREFA take as a given that the proposed rules may have benefits. Their aim is to assure that while achieving whatever those benefits are, the agencies make sure to assess the potential adverse impacts of the rules on small businesses and

tailor those rules as best they can to avoid adverse impacts.

It doesn't stop them from issuing a rule. The bill does not impede the achievement of any benefit or supposed benefit, nor does it prohibit the agencies from stating what they think those benefits will be. In fact, they do that today. It simply assures that RFA and SBREFA will finally be implemented in a way that better protects small businesses as those benefits are achieved. And the amendment is unnecessary, and I urge my colleagues to oppose it.

Mr. Conyers. Mr. Chairman?

Chairman Goodlatte. For what purpose does the gentleman from Michigan seek recognition?

Mr. Conyers. I rise in support of the Nadler amendment.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Conyers. Thank you very much.

I think this is a cautionary amendment, especially when it comes to the indirect economic effects of proposed regulations on small businesses. And it is not alleged by the author or anyone supporting the amendment that all of these proposals are being ignored, and that there are no indirect economic effects. I would submit that probably some proposed regulations on small businesses aren't examined for their indirect economic effect. But what this amendment does is make all of them subject to this, and for that reason I think this could be very helpful for the creation of small businesses, the jobs that they produce, and the help that they provide to the economy.

I yield to the gentleman from New York, the author of the

amendment.

Mr. Nadler. I thank the gentleman for yielding. I thank him for his argument.

I would point out that the gentleman from Alabama did not argue against the amendment. He said, at worst it is unnecessary. He didn't say it was harmful in any way, that it would detract from the purpose or effect of the bill in any way. He simply said, it is unnecessary; they may do it.

Well, in some cases, they may do it. In other cases, they don't do it. It certainly makes sense to mandate that if we are going to mandate that they look at the indirect effects, you ought to look at indirect benefits as well as indirect costs. Common sense would say they would, but why not say so?

I mean, I have heard no argument against the amendment. I have heard an argument that says, well, it is going to happen anyway. Sometimes, maybe. But why not require it, if no one can come up with an objection to it, which I haven't heard.

I yield back.

Mr. Conyers. I think the case has been made, but this is a matter of being comprehensive and to not trust that most of the goals set would be accomplished were this requirement embodied in this amendment were not the law.

I think this would be very helpful to small businesses. The economic effects in terms of benefits and liabilities would be included. So I hope the Nadler amendment receives the support of this

committee and moves forward.

And I return the balance of my time.

Chairman Goodlatte. The question occurs on the amendment offered by the gentleman from New York.

All those in favor, respond by saying aye.

Those opposed, no.

In the opinion of the chair, the noes have it.

Mr. Nadler. Recorded vote.

Chairman Goodlatte. The gentleman from New York requests a recorded vote. The clerk will call the roll.

Ms. Deterding. Mr. Goodlatte?

Chairman Goodlatte. No.

Ms. Deterding. Mr. Goodlatte votes no.

Mr. Sensenbrenner?

[No response.]

Ms. Deterding. Mr. Coble?

[No response.]

Ms. Deterding. Mr. Smith of Texas?

Mr. Smith of Texas. No.

Ms. Deterding. Mr. Smith of Texas votes no.

Mr. Chabot?

[No response.]

Ms. Deterding. Mr. Bachus?

Mr. Bachus. No.

Ms. Deterding. Mr. Bachus votes no.

Mr. Issa?

[No response.]

Ms. Deterding. Mr. Forbes?

[No response.]

Ms. Deterding. Mr. King?

Mr. King. No.

Ms. Deterding. Mr. King votes no.

Mr. Franks?

Mr. Franks. No.

Ms. Deterding. Mr. Franks votes no.

Mr. Gohmert?

[No response.]

Ms. Deterding. Mr. Jordan?

[No response.]

Ms. Deterding. Mr. Poe?

[No response.]

Ms. Deterding. Mr. Chaffetz?

Mr. Chaffetz. No.

Ms. Deterding. Mr. Chaffetz votes no.

Mr. Marino?

Mr. Marino. No.

Ms. Deterding. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

Ms. Deterding. Mr. Gowdy votes no.

Mr. Amodei?

[No response.]

Ms. Deterding. Mr. Labrador?

Mr. Labrador. No.

Ms. Deterding. Mr. Labrador votes no.

Mr. Farenthold?

Mr. Farenthold. No.

Ms. Deterding. Mr. Farenthold votes no.

Mr. Holding?

Mr. Holding. No.

Ms. Deterding. Mr. Holding votes no.

Mr. Collins?

Mr. Collins. No.

Ms. Deterding. Mr. Collins votes no.

Mr. DeSantis?

[No response.]

Ms. Deterding. Mr. Smith of Missouri?

Mr. Smith of Missouri. No.

Ms. Deterding. Mr. Smith of Missouri votes no.

Mr. Conyers?

Mr. Conyers. Aye.

Ms. Deterding. Mr. Conyers votes aye.

Mr. Nadler?

Mr. Nadler. Aye.

Ms. Deterding. Mr. Nadler votes aye.

Mr. Scott?

Mr. Scott. Aye.

Ms. Deterding. Mr. Scott votes aye.

Mr. Watt?

Mr. Watt. Aye.

Ms. Deterding. Mr. Watt votes aye.

Ms. Lofgren?

Ms. Lofgren. Aye.

Ms. Deterding. Ms. Lofgren votes aye.

Ms. Jackson Lee?

[No response.]

Ms. Deterding. Mr. Cohen?

[No response.]

Ms. Deterding. Mr. Johnson?

Mr. Johnson. Aye.

Ms. Deterding. Mr. Johnson votes aye.

Mr. Pierluisi?

Mr. Pierluisi. Aye.

Ms. Deterding. Mr. Pierluisi votes aye.

Ms. Chu?

Ms. Chu. Aye.

Ms. Deterding. Ms. Chu votes aye.

Mr. Deutch?

Mr. Deutch. Aye.

Ms. Deterding. Mr. Deutch votes aye.

Mr. Gutierrez?

[No response.]

Ms. Deterding. Ms. Bass?

Ms. Bass. Aye.

Ms. Deterding. Ms. Bass votes aye.

Mr. Richmond?

[No response.]

Ms. Deterding. Ms. DelBene?

Ms. DelBene. Aye.

Ms. Deterding. Ms. DelBene votes aye.

Mr. Garcia?

Mr. Garcia. Aye.

Ms. Deterding. Mr. Garcia votes aye.

Mr. Jeffries?

[No response.]

Chairman Goodlatte. The gentleman from Wisconsin?

Mr. Sensenbrenner. No.

Ms. Deterding. Mr. Sensenbrenner votes no.

Chairman Goodlatte. The gentleman from Ohio?

Mr. Chabot. No.

Ms. Deterding. Mr. Chabot votes no.

Chairman Goodlatte. The gentleman from Virginia?

Mr. Forbes. No.

Ms. Deterding. Mr. Forbes votes no.

Chairman Goodlatte. The gentleman from Texas?

Mr. Gohmert. No.

Ms. Deterding. Mr. Gohmert votes no.

Chairman Goodlatte. Has every Member voted who wishes to vote?

The clerk will report.

Ms. Deterding. Mr. Chairman, 12 Members voted aye; 17 Members voted nay.

Chairman Goodlatte. And the amendment is not agreed to.

The REINS Act, a bill reported out of this committee, is before the Rules Committee right now, and the chairman and the ranking member and Members who have amendments they wish to have made in order will need to appear before the Rules Committee. Therefore, the committee will stand in recess for 1 hour until 3:50. See you then.

[Recess.]

Chairman Goodlatte. The committee will be in order.

When the committee last recessed, we were considering amendments to H.R. 2542.

For what purpose does the gentleman from Georgia seek recognition?

Mr. Johnson. I have an amendment at the desk, Mr. Chairman.

Chairman Goodlatte. The clerk will report the amendment.

Ms. Deterding. Amendment to H.R. 2542 offered by Mr. Johnson of Georgia. Add at the end --

Chairman Goodlatte. Without objection, the amendment will be considered as read.

[The amendment of Mr. Johnson follows:]

***** COMMITTEE INSERT *****

Chairman Goodlatte. And the gentleman is recognized for 5 minutes on his amendment.

Mr. Johnson. Thank you, Mr. Chairman.

My amendment would ensure that millions have health care. On March 23, 2010, President Obama signed the Patient Protection and Affordable Care Act into law. Ever since this landmark legislation was signed into law, the majority has been on a mission to dismantle it. This is disconcerting, as the bill is already providing benefits to thousands of my constituents and will provide affordable health care to millions of Americans who do not have it today.

For the more than 190,000 residents in my district who have no health insurance, it will allow access to affordable care. It is going to improve coverage for more than 65,000 seniors, protect more than 2,000 families from going bankrupt when a child gets sick, and allow more than 15,000 small businesses to afford coverage for their employees.

Because the majority knows that the President would likely veto their pending proposals to repeal the Affordable Care Act, it has moved to deregulation as a means of eviscerating the law. We all know that regulations and guidelines are used to implement many of the provisions in the Affordable Care Act. Because the majority cannot directly repeal the bill, they are seeking to end it through deregulation.

This bill, the Regulatory Flexibility Improvements Act, is another misnomer. This bill does not improve the regulatory process. Instead, it is simply part of the majority's antiregulatory agenda to

gum up the regulatory process and make it virtually impossible to implement rules for our health and public safety.

This bill is far from fine-tuning the regulatory process. It will do nothing to make the regulatory process more bureaucratic, and it imposes unnecessary hurdles for agencies seeking to enact rules to protect our health and safety. More specifically, this bill will delay, if not halt, necessary regulations to implement the Affordable Care Act.

I am here to fight for the 32 million Americans and more than 500,000 people in my district who would benefit from the healthcare reform bill. I urge my colleagues to join me and vote this amendment out favorably.

I thank you, Mr. Chairman, and I yield back the balance of my time.

Chairman Goodlatte. For what purpose does the gentleman from Alabama seek recognition?

Mr. Bachus. Mr. Chairman, I oppose the amendment.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Bachus. Thank you.

Mr. Chairman, this amendment would exempt rules implementing the Patient Protection and Affordable Care Act, otherwise known as Obamacare, from the requirements of the bill. What we are talking about is, with RFA and SBREFA, we are talking about legislation that first started under President Carter, President Clinton, the Bushes -- both Bushes -- and even President Obama believes in RFA and SBREFA. And the reason is because the agency, before it passes a rule,

has got to look at the significant economic impact that certain legislation would have on small business and whether it has a substantial impact on a number of entities. And I think we all agree, I don't know if there is any disagreement even from the sponsor of this amendment, that Obamacare is going to have a substantial economic impact on every small business in the country --

Mr. Johnson. Would the gentleman yield?

Mr. Bachus. -- and that there are substantial numbers of small businesses.

Yes, I would yield.

Mr. Johnson. Yeah. I think it will have a tremendous effect at lowering medical costs.

Mr. Bachus. Yeah. You are saying it is going to have a benefit, but it may also have a detriment. I am sure the gentleman, it never occurred to him that there might be a cost or that there may be some negative connotations to the bill.

I do know this: I do know that when I go around my district -- and I think every Member here would have to say that somebody has come up to them and said, I want to know how this is going to affect my business. I want to know what I have got to do. I want to know what economic impact. I want to know what it is going to cost me.

So in my mind, I see not only no reason to carve out Obamacare out of this legislation, but every reason to keep it in. For months on end, you know, we have been hearing about Obamacare and how its implementation is either going to benefit people or hurt people and

have its effect on small businesses, whether they are going to hire more workers, whether they can continue to provide full-time jobs. You know, there is a lot of debate on whether this may cause businesses to hire a lot of part-time employees. I think we need to take a look at that. The last thing we need in this country is fewer full-time jobs and more part-time jobs.

And, of course, we are talking about legislation that is over 2,000 pages. Not the regulations; the regulations will probably be 10, 15 times that number. And there are going to be plenty of new regulations, and they not only include regulations from the Department of Health and Human Services, but I will remind the members of the committee that the IRS, Internal Revenue, I think they have kind of been a source of some concern recently, some of their practices, but the IRS has a major role in implementing Obamacare.

And with our economic recovery stalling, we shouldn't give agencies that are implementing Obamacare a blank check to impose new regulatory burdens on small businesses without giving those small businesses the 60-day window of opportunity to ask questions and to consider their feelings.

Again, this bill just requires agencies to do what they are already supposed to do, but are not doing. There is no need for this amendment and every reason to reject it. I urge my colleagues to oppose the amendment.

Mr. Johnson. Would the gentleman please yield?

Mr. Bachus. I will.

Mr. Johnson. And I thank you.

The honorable gentleman from Alabama is eminently wise and has the temperament of a true statesman. And if we could ever get the rest of your caucus to adopt your leanings, I think we would be able to work out all of the difficulties that the Nation faces in many areas, including with the implementation of Obamacare, which is, as the gentleman knows, the law of the land.

And no situation that we pass will be perfect in its form, and everything has to be tweaked. And I just wish that this body would be a part of the solution as opposed to part of the problem. And I appreciate the gentleman yielding.

Mr. Bachus. Well, thank you. And let me say very briefly, Mr. Chairman, that there are three types of people that like compliments, and that is men, women, and children. So I do appreciate the compliment.

Mr. Johnson. It was heartfelt and sincere.

Chairman Goodlatte. The question occurs on the amendment offered by the gentleman from Georgia.

All those in favor, respond by saying aye.

Those opposed, no.

In the opinion of the chair, the noes have it. The amendment is not agreed to.

The clerk will call the roll.

Mr. Johnson. Mr. Chairman is asking for a recorded vote?

Chairman Goodlatte. I am.

Ms. Deterding. Mr. Goodlatte?

Chairman Goodlatte. No.

Ms. Deterding. Mr. Goodlatte votes no.

Mr. Sensenbrenner?

[No response.]

Ms. Deterding. Mr. Coble?

Mr. Coble. No.

Ms. Deterding. Mr. Coble votes no.

Mr. Smith of Texas?

[No response.]

Ms. Deterding. Mr. Chabot?

Mr. Chabot. No.

Ms. Deterding. Mr. Chabot votes no.

Mr. Bachus?

Mr. Bachus. No.

Ms. Deterding. Mr. Bachus votes no.

Mr. Issa?

[No response.]

Ms. Deterding. Mr. Forbes?

[No response.]

Ms. Deterding. Mr. King?

[No response.]

Ms. Deterding. Mr. Franks?

Mr. Franks. No.

Ms. Deterding. Mr. Franks votes no.

Mr. Gohmert?

[No response.]

Ms. Deterding. Mr. Jordan?

[No response.]

Ms. Deterding. Mr. Poe?

[No response.]

Ms. Deterding. Mr. Chaffetz?

Mr. Chaffetz. No.

Ms. Deterding. Mr. Chaffetz votes no.

Mr. Marino?

[No response.]

Ms. Deterding. Mr. Gowdy?

Mr. Gowdy. No.

Ms. Deterding. Mr. Gowdy votes no.

Mr. Amodei?

[No response.]

Ms. Deterding. Mr. Labrador?

[No response.]

Ms. Deterding. Mr. Farenthold?

Mr. Farenthold. No.

Ms. Deterding. Mr. Farenthold votes no.

Mr. Holding?

Mr. Holding. No.

Ms. Deterding. Mr. Holding votes no.

Mr. Collins?

[No response.]

Ms. Deterding. Mr. DeSantis?

Mr. DeSantis. No.

Ms. Deterding. Mr. DeSantis votes no.

Mr. Smith of Missouri?

[No response.]

Ms. Deterding. Mr. Conyers?

[No response.]

Ms. Deterding. Mr. Nadler?

Mr. Nadler. Aye.

Ms. Deterding. Ms. Nadler votes aye.

Mr. Scott?

Mr. Scott. Aye.

Ms. Deterding. Mr. Scott votes aye.

Mr. Watt?

[No response.]

Ms. Deterding. Ms. Lofgren?

[No response.]

Ms. Deterding. Ms. Jackson Lee?

[No response.]

Ms. Deterding. Mr. Cohen?

[No response.]

Ms. Deterding. Mr. Johnson?

Mr. Johnson. Aye.

Ms. Deterding. Mr. Johnson votes aye.

Mr. Pierluisi?

Mr. Pierluisi. Aye.

Ms. Deterding. Mr. Pierluisi votes aye.

Ms. Chu?

[No response.]

Ms. Deterding. Mr. Deutch?

[No response.]

Ms. Deterding. Mr. Gutierrez?

[No response.]

Ms. Deterding. Ms. Bass?

[No response.]

Ms. Deterding. Mr. Richmond?

[No response.]

Ms. Deterding. Ms. DelBene?

Ms. DelBene. Aye.

Ms. Deterding. Ms. DelBene votes aye.

Mr. Garcia?

[No response.]

Ms. Deterding. Mr. Jeffries?

[No response.]

Chairman Goodlatte. The gentleman from Texas?

Mr. Gohmert. No.

Ms. Deterding. Mr. Gohmert votes no.

Chairman Goodlatte. Has every Member voted who wishes to vote?

The clerk will report.

Ms. Deterding. Mr. Chairman, 5 Members voted aye; 11 Members voted nay.

Chairman Goodlatte. And the amendment is not agreed to.

The chair notes the lack of a reporting quorum, and so we are going to move to the next bill, and we will come back to final passage of this legislation once we secure a reporting quorum.

Mr. Bachus. Mr. Chairman, are we through considering amendments?

Chairman Goodlatte. There is one more possible amendment. The gentlewoman from Texas is not here to offer it. She may return to offer it. If she does, we will consider it; if not, we will go to a vote on final passage when we have a reporting quorum.

Chairman Goodlatte. Pursuant to notice, I now call up H.R. 2641 for purposes of markup and move that the committee report the bill favorably to the House.

The clerk will report the bill.

Ms. Detending. H.R. 2641, to provide for improved coordination of agency actions in the preparation and adoption of environmental documents for permitting determinations, and for other purposes.

Chairman Goodlatte. Without objection, the bill is considered as read and open for amendment at any point.

[The information follows:]

***** INSERT 3-1 *****

Chairman Goodlatte. And I will begin by recognizing myself for an opening statement.

I want to thank Representative Marino for his introduction of this important bipartisan bill, and subcommittee Chairman Bachus for his work to report the bill promptly from the subcommittee to the full committee.

The RAPID Act is one of the key pieces of legislation Congress can pass to reduce red tape and promote job creation. Just this month the Regulatory Reform Subcommittee heard testimony that the RAPID Act could help to stimulate the creation of 3 million jobs. In an economy in which the number of discouraged workers just increased by 240,000, the number of people who work part time but want full-time work just passed 8.2 million, and true unemployment continues to exceed 20 million Americans, that is testimony upon which Congress must act.

The Federal Government's outdated and overly burdensome environmental review process has kept jobs and workers waiting for approval from Washington's government agencies for far too long. The United States now ranks a dismal 17th in the world in the time it takes to obtain government approval of new development.

When the National Environmental Policy Act was first implemented, neither Congress nor the executive branch ever contemplated that the NEPA process could so bog down responsible Federal permitting. Clearly the system needs to be reformed. The key is to find the right balance between economic progress and the proper level of analysis.

The RAPID Act strikes this balance. It does not force agencies

to approve or deny any projects. It simply ensures that the process agencies use to make permit decisions and the timeline for subsequent litigation are transparent, logical, and efficient. To do that, the RAPID Act draws upon established definitions and concepts from existing NEPA regulations. It also draws upon commonsense suggestions from across the political spectrum, including the President's Jobs Council and the administration's Council on Environmental Quality.

In many respects the bill is modeled on the permit streamlining sections of Congress' SAFETEA-LU and MAP-21 transportation legislation, which commanded bipartisan support. A study by the Federal Highway Administration found that this legislation has cut the time for completing an environmental impact statement nearly in half.

I urge my colleagues to support this important legislation and cut down the time it takes America's workers to see a real jobs recovery.

For what purpose does the gentleman from New York seek recognition?

Mr. Nadler. I have the statement from the minority.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Nadler. Thank you, Mr. Chairman. This is a statement from Mr. Conyers, who is not here at the moment.

The title of the bill that the committee proposes to mark up today, namely the Responsibly and Professionally Invigorating Development Act of 2013 is, in fact, very misleading. Rather than effectuating real reforms through the process by which Federal agencies undertake environmental impact reviews as required by the National Environmental

Policy Act, or NEPA, this legislation will actually result in making this process less responsible, less professional, and less accountable. Worse yet, this measure could jeopardize public health and safety by prioritizing project approval over meaningful analysis.

To begin with, the bill, under the guise of streamlining the approval process, forecloses potentially critical input from Federal, State and local agencies and other interested parties for construction projects that are federally funded or that require Federal approval. The bill limits the opportunity for public participation and imposes deadlines that may be unrealistic under many circumstances. Moreover, if an agency fails to meet these unrealistic deadlines, the bill simply declares that a project must be deemed approved regardless of whether the agency has thoroughly assessed risks.

As a result, this measure could allow projects to proceed and put public health and safety at risk. For example, as our witness aptly explained at the hearing earlier this month on this measure, H.R. 2641 could effectively prevent the Nuclear Regulatory Commission from exercising its licensing authority pertaining to nuclear power reactors, waste management sites, and nuclear waste disposal facilities. This bill could allow such projects to be approved before the safety review is completed, thus, obviously, putting the public safety at great risk.

This failing of the bill, along with many others, explains why the administration and the President's Council on Environmental Quality along with 25 respected environmental groups, including the

Audubon Society, the League of Conservation Voters, the Natural Resources Defense Council, the Sierra Club, and the Wilderness Society, have all vigorously opposed this bill's predecessor in the last Congress.

In issuing its veto regarding that prior measure, the administration noted, for example, that the bill, quote, "would create excessively complex permitting processes that would hamper economic growth," closed quote.

Another concern that I have with this bill, like other measures that we have considered, is that it is a solution in search of a problem. That is not just my opinion; the nonpartisan Congressional Research Service issued a report last year stating that the primary source of approval delays for construction projects, quote, "are more often tied to local State and project-specific factors, primarily local State agency priorities, project funding levels, local opposition to a project, project complexity, or late changes in project scope," closed quote. CRS further notes that project delays based on environmental requirements stem not from NEPA, but from laws other than NEPA. So I have to ask, why do we need a bill such as the so-called RAPID Act that will undoubtedly make the process less clear and less protective of public health and safety?

My final major concern with this bill is that rather than streamlining the environmental review process, it will sow utter confusion. H.R. 2641 does this by creating a separate, but only partly parallel environmental review process for construction projects

that will only cause confusion, delay, and litigation.

As I noted at the outset, the changes to the NEPA review process contemplated by this measure apply only to certain construction projects. NEPA, however, applies to a broad panoply of Federal actions, including fishing, hunting, and grazing permits; land management plans; base realignment and closure activities; and treaties. As a result of the bill, there could potentially be two different environmental review processes for the same project. For example, the bill's requirements should apply to the construction of a nuclear reactor, but not to its decommissioning or to the transportation and storage of its spent fuel.

Rather than improving the environmental review process, this bill will complicate it and generate additional litigation. But more importantly, this bill is yet another effort by my friends on the other side of the aisle to undermine regulatory protections that the American people find vital to their safety. As with all the other regulatory bills, this measure is a thinly disguised effort to hobble the ability of Federal agencies to do the work that Congress requires them to do. I certainly oppose this seriously flawed bill, and I yield back.

Chairman Goodlatte. The chair thanks the gentleman.

The chair now is pleased to recognize a member of the Subcommittee on Regulatory Reform, Commercial and Administrative Law and the sponsor of this legislation, the gentleman from Pennsylvania, Mr. Marino for his opening statement.

Mr. Marino. Thank you, Chairman.

Mr. Chairman, H.R. 2641, the Responsibly and Professionally Invigorating Development, RAPID, Act of 2013, will remove the red tape job creators are finding themselves tangled up in every time they try to move forward with a new project. A recent study by the U.S. Chamber entitled, quote, "Project/No Project," unquote, identified as many as 351 State-level projects that, if approved for construction, could have created 1.9 million jobs annually during the projected 7 years of construction.

This study puts the issue in perspective, but I do not need to look far to see the devastation that results from overregulation. For example, one of my constituents, PPL Corporation, filed an application with the U.S. Nuclear Regulatory Commission, the NRC, for a license to build and operate a state-of-the-art nuclear plant near the company's existing two-unit Susquehanna Nuclear Power Plant. The plant would produce 1,600 megawatts of electricity, enough to power more than 1 million homes.

Early estimates by PPL were that the project would cost \$15 billion to construct, including escalation, financing costs, initial nuclear fuel, and contingencies and reserves. Just think about the positive impact of a \$15 billion investment in my district. However, this project's current status is -- you guessed it -- still delayed 5 years after the application was first filed in 2008. The NRC claims they are still reviewing the company's request for a combined operating license, 5 years. In fact, PPL says, realistically a final decision on the project is still several years away.

Let me be clear, the National Environmental Policy Act of 1969 serves worthy goals, which should be preserved. Federal agencies should be aware of how their actions affect the environment. However, over time, NEPA regulations have turned into an outdated, burdensome, and convoluted Federal permitting process that must be reined in.

My bill, the RAPID Act of 2013, aims to restore the balance between thorough analysis and timely decisionmaking in Federal permitting process. This bill would codify concepts, definitions, and establish best practices from NEPA regulations to ensure the Federal review and permitting process is efficient and transparent. Furthermore, this bill would empower lead agencies to manage environmental reviews from start to finish, as well as establish time constraints on both the period of time to complete the review process and the window of time in which parties can bring suit. Job creators and workers deserve a simplified, transparent system with time certain deadlines in place.

In closing, I want to thank my cosponsors, Chairman Bachus, Mr. Coble, Mr. Smith of Texas, Mr. Franks, Mr. Bonner, Mr. Smith of Missouri, Mr. Owens, Mr. Peterson, and Mr. Amodei, for their support. I would also like to thank the chairman for bringing this bill before us for a markup today. I appreciate my colleagues' interest in working with us to come up with a bipartisan solution, and I look forward to working with them to tweak the bill before it should come to the floor.

And I yield back.

Chairman Goodlatte. The chair thanks the gentleman.

Are there amendments to H.R. 2641?

For what purpose does the gentleman from New York seek recognition?

Mr. Nadler. Mr. Chairman, I have an amendment at the desk.

Chairman Goodlatte. The clerk will report the amendment.

Ms. Deterding. Amendment to H.R. 2641 offered by Mr. Nadler of New York.

Chairman Goodlatte. Without objection, the amendment will be considered as read.

[The amendment of Mr. Nadler follows:]

***** COMMITTEE INSERT *****

Chairman Goodlatte. And the gentleman is recognized for 5 minutes on his amendment.

Mr. Nadler. Thank you, Mr. Chairman.

Mr. Chairman, my amendment exempts from the bill any construction project for a nuclear facility planned in an area designated as an earthquake fault zone.

The RAPID Act would prevent meaningful input on complicated construction projects that have the potential to have disastrous impacts on individuals living near them.

The meltdown of nuclear reactors at the Fukushima Daiichi power plant in Japan in the aftermath of a devastating earthquake and tsunami highlights the dangers of regulatory failure when it comes to ensuring the safe operation of nuclear reactors. This disaster underscores the very real dangers of regulatory failure when it comes to ensuring the safe operation of nuclear reactors. In particular, the Fukushima disaster illustrates the failure in planning a construction project in an area susceptible to earthquakes and tsunamis.

Now, consider the Indian Point nuclear power plant, which is only 25 miles from New York City, and, according to the Nuclear Regulatory Commission, could be at risk of reactor core damage from an earthquake. A fault zone goes right near the reactor, a fault that was not known when the reactor was constructed. An estimated 17 million people live within a 50-mile radius of the Indian Point nuclear power plant. By imposing strict deadlines, the RAPID Act would prevent the Nuclear Regulatory Commission from being able to protect the tens of millions

who live in the greater New York metropolitan area and millions of other Americans who live near nuclear power plants from a catastrophe akin to what happened at Fukushima.

Therefore, I urge everyone to support this amendment to exempt from this bill, from this bill that puts additional burdens on any regulations, to exempt from this bill any construction project for a nuclear facility planned in an area designated as an earthquake fault zone. For obvious reasons I am not so sure you should be building nuclear power plants in earthquake fault zones, but if you are, we want the strictest regulatory review to make sure of the safety of the millions of people who may live in the surrounding area and not a foreshortened process, foreshortened by the deadlines and other measures in this bill. We want it done right. And therefore, I urge the amendment that would exclude nuclear reactors built in earthquake zones from this bill.

I yield to the gentleman from Michigan.

Mr. Conyers. I am enthusiastically in support. But could you describe what you mean by "imposing strict deadlines"? How does that play into the bill?

Mr. Nadler. As I understand the bill, the bill puts limits on the regulatory agencies and imposes deadlines -- I cannot list them off the top of my head -- for actions. And, in fact, it says, for example, I believe, that if an EIS, an environmental impact statement, is not ready within a certain period of time, then it is deemed okay, which is a rather draconian measure to take, especially since the EIS

is developed not by the regulatory agency, but by the sponsoring agency.

So, in effect, if the sponsoring agency wants to develop a nuclear power plant or anything else, and it thinks that it has something that couldn't pass the proper environmental review, all it has to do is wait the requisite amount of time before filing the EIS, and it is automatically deemed approved. So whatever the wisdom or lack of wisdom of such a provision, you certainly don't want that with respect to nuclear reactors planned for earthquake zones.

Mr. Conyers. I thank the gentleman.

Mr. Nadler. Thank you. I yield back.

Chairman Goodlatte. For what purpose does the gentleman from Pennsylvania seek recognition?

Mr. Marino. I oppose the amendment.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Marino. Thank you.

I oppose the amendment because it is unnecessary and unnecessarily blocks needed construction projects from breaking ground. America's real unemployment rate is stuck at about 14 percent, and over 20 million Americans are looking for work. A March 2011 Project/No Project study identified 351 energy projects, including nuclear projects, that, if approved, could generate \$1.1 trillion for the economy and create almost 2 million jobs annually.

I appreciate that my colleague is concerned about the safety of nuclear power. So am I. I have three in my district, including an earthquake fault zone that he was talking to us about. But the RAPID

Act does not require agencies to approve or deny any particular project or permit applications. It simply ensures that the environmental review and permitting process is conducted by agencies in an efficient and transparent manner.

It is consistent with the administration's own guidance, the President's Jobs Council's recommendation and prior bipartisan legislation.

I appreciate that my colleague is concerned about the safety of nuclear power, but the RAPID Act, again, does not deny any particular permit or application. Six years to approve a permit is nothing less than incompetent, and most Americans are tired of this.

I want to give you some examples here in my State of Pennsylvania. In Pike, Wayne, and Lackawanna Counties, Susquehanna-Roseland power line, summary, it is basically a power line that could supply 500 kilovolts overhead transmission for a line from Berwick, Pennsylvania, to Roseland, New Jersey. The total project cost is about \$1.3 billion. You can imagine the jobs that it creates. But, however, there is delay after delay after delay. And as a matter of fact, the delays are simply made by lawsuits by left-wing groups and permitting delays. The new transmission line, which is under construction, was expected to be done in 2012. It is now at least 2015, and the costs are going up.

As far as in the U.S., the William States Lee III nuclear station in Cherokee Falls, South Carolina, the first application was filed in 2007 and is still going through the permitting process. Over 3,000 construction jobs at the peak, and the plant would employ 800 to 1,000

full-time employees. Opposition to the nuclear power plant proposal and prospects are indeterminate of when this project is going to be completed.

So given the explanations that I have shown in my State and in the United States, across the country, for these reasons I oppose the amendment.

Chairman Goodlatte. The question occurs on the amendment offered by the gentleman from New York.

All those in favor, respond by saying aye.

Those opposed, no.

In the opinion of the chair, the noes have it. The amendment is not agreed to.

Mr. Nadler. Roll call.

Chairman Goodlatte. A recorded vote is requested, and the clerk will call the roll.

Ms. Deterding. Mr. Goodlatte?

Chairman Goodlatte. No.

Ms. Deterding. Mr. Goodlatte votes no.

Mr. Sensenbrenner?

[No response.]

Ms. Deterding. Mr. Coble?

[No response.]

Ms. Deterding. Mr. Smith of Texas?

[No response.]

Ms. Deterding. Mr. Chabot?

Mr. Chabot. No.

Ms. Deterding. Mr. Chabot votes no.

Mr. Bachus?

Mr. Bachus. No.

Ms. Deterding. Mr. Bachus votes no.

Mr. Issa?

[No response.]

Ms. Deterding. Mr. Forbes?

[No response.]

Ms. Deterding. Mr. King?

Mr. King. No.

Ms. Deterding. Mr. King votes no.

Mr. Franks?

Mr. Franks. No.

Ms. Deterding. Mr. Franks votes no.

Mr. Gohmert?

Mr. Gohmert. No.

Ms. Deterding. Mr. Gohmert votes no.

Mr. Jordan?

[No response.]

Ms. Deterding. Mr. Poe?

[No response.]

Ms. Deterding. Mr. Chaffetz?

[No response.]

Ms. Deterding. Mr. Marino?

Mr. Marino. No.

Ms. Deterding. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

Ms. Deterding. Mr. Gowdy votes no.

Mr. Amodei?

[No response.]

Ms. Deterding. Mr. Labrador?

Mr. Labrador. No.

Ms. Deterding. Mr. Labrador votes no.

Mr. Farenthold?

Mr. Farenthold. No.

Ms. Deterding. Mr. Farenthold votes no.

Mr. Holding?

Mr. Holding. No.

Ms. Deterding. Mr. Holding votes no.

Mr. Collins?

[No response.]

Ms. Deterding. Mr. DeSantis?

Mr. DeSantis. No.

Ms. Deterding. Mr. DeSantis votes no.

Mr. Smith of Missouri?

Mr. Smith of Missouri. No.

Ms. Deterding. Mr. Smith of Missouri votes no.

Mr. Conyers?

Mr. Conyers. Aye.

Ms. Deterding. Mr. Conyers votes aye.

Mr. Nadler?

Mr. Nadler. Aye.

Ms. Deterding. Mr. Nadler votes aye.

Mr. Scott?

Mr. Scott. Aye.

Ms. Deterding. Mr. Scott votes aye.

Mr. Watt?

[No response.]

Ms. Deterding. Ms. Lofgren?

[No response.]

Ms. Deterding. Ms. Jackson Lee?

Ms. Jackson Lee. Aye.

Ms. Deterding. Ms. Jackson Lee votes aye.

Mr. Cohen?

[No response.]

Ms. Deterding. Mr. Johnson?

Mr. Johnson. Aye.

Ms. Deterding. Mr. Johnson votes aye.

Mr. Pierluisi?

Mr. Pierluisi. Aye.

Ms. Deterding. Mr. Pierluisi votes aye.

Ms. Chu?

Ms. Chu. Aye.

Ms. Deterding. Ms. Chu votes aye.

Mr. Deutch?

[No response.]

Ms. Deterding. Mr. Gutierrez?

[No response.]

Ms. Deterding. Ms. Bass?

[No response.]

Ms. Deterding. Mr. Richmond?

[No response.]

Ms. Deterding. Ms. DelBene?

Ms. DelBene. Aye.

Ms. Deterding. Ms. DelBene votes aye.

Mr. Garcia?

[No response.]

Ms. Deterding. Mr. Jeffries?

Mr. Jeffries. Aye.

Ms. Deterding. Mr. Jeffries votes aye.

Chairman Goodlatte. The gentleman from Wisconsin?

Mr. Sensenbrenner. No.

Ms. Deterding. Mr. Sensenbrenner votes no.

Chairman Goodlatte. The gentleman from North Carolina?

Mr. Coble. No.

Ms. Deterding. Mr. Coble votes no.

Chairman Goodlatte. Has every Member voted who wishes to vote?

The clerk will report.

Ms. Deterding. Mr. Chairman, 9 Members voted aye; 15 Members voted nay.

Chairman Goodlatte. And the amendment is not agreed to.

RPTS BLAZEJEWSKI

DCMN ROSEN

[5:00 p.m.]

Chairman Goodlatte. The chair thinks that now that the gentlewoman from Texas has returned and her amendment is the only amendment pending on the last bill, and we now have a reporting quorum, that we should return to that legislation because we have at least two amendments pending on this one, so the committee will leave H.R. 2641 and return to H.R. 2542, the Regulatory -- oh, I am sorry -- yeah, the Regulatory Flexibility Act, and ask for what purpose the gentlewoman from Texas seeks recognition?

Ms. Jackson Lee. Mr. Chairman, I have an amendment at the desk.

Chairman Goodlatte. The clerk will report the amendment.

[The amendment of Ms. Jackson Lee follows:]

***** COMMITTEE INSERT *****

Ms. Deterding. Amendment to H.R. 2542, offered by Ms. Jackson Lee of Texas, at the end of the bill the following and conform the table of contents accordingly.

Chairman Goodlatte. Without objection, the amendment is considered as read, and the gentlewoman is recognized for 5 minutes to explain her amendment.

Ms. Jackson Lee. Thank you very much for the opportunity to explain the amendment. Briefly, my amendment makes an exception under this legislation for FDA rules, and it is based on a number of thoughts and interests, particularly from the consumer communities of this country. The U.S. Public Interest Research Group stated in a letter all three bills, and this one in particular, favor special interests over the public interest. They threaten some of the Nation's most basic safeguards, and they will unravel nearly three decades of health and safety. The enactment of any one of these bills will put agencies such as the Centers for Disease Control and the Food and Drug Administration on a never-ending treadmill of bureaucratic analysis.

So my bill is simple. It takes out the very agency that deals with the safety of the very important element of our life. That is food, food intake. And everyone knows the devastation that can come about from food-borne illnesses due to unsafe industry practices and inspection of imported meat from countries where safety laws are weak or nonexistent. In fact, over the years we have documented situations where there has been poor inspections and food is contaminated and been contaminated, sent to our grocery stores, and we have seen the callback

of those foods.

Baby formula is unique and in particular has been vulnerable to the lack of sure and good inspection, and therefore, I ask my colleagues to consider the importance of the FDA and the importance of providing food safety and inspection and the obvious of what happens when food becomes contaminated and the easy way in which it can cause massive illnesses and epidemics.

Mr. Conyers. Would the gentlelady yield?

Ms. Jackson Lee. I will be happy to yield to the gentleman.

Mr. Conyers. I thank you for this important recommendation. Do we include in your amendment medications and medical devices as well?

Ms. Jackson Lee. Mr. Chairman, my amendment is broad enough to include that. It includes all of the jurisdiction under the Food and Drug Administration. And so, yes, devices as well as prescriptions, and as you well know, medication --

Mr. Conyers. Right.

Ms. Jackson Lee. As you well know, that is another element of which the consumer can be impacted negatively.

Mr. Conyers. Very important. I thank you very much.

Ms. Jackson Lee. Thank you. I will be happy to yield back. I ask my colleagues to support the amendment.

Chairman Goodlatte. The chair recognizes himself in opposition to the amendment. This amendment proposes to carve out an exception to the bill for the Food and Drug Administration. Again, if agencies were doing what they are supposed to do under the Regulatory Flexibility

Act, then we wouldn't be here today, but they aren't, so we are. Small businesses create jobs, and jobs are the key to economic recovery. To help small businesses to create jobs, we need to reduce, not increase the regulatory burden on small businesses.

The FDA is a major regulatory agency, and it is not exempt from the RFA as it currently stands. Now it is not the time to start walking back the RFA's requirements.

Indeed, the FDA recently proposed to regulate the spent grain beer producers sell at deep discounts to farmers to use as feed. Brewers have been doing this for hundreds of years with no documented human health risk. FDA's needless regulations will mean hundreds -- the gentleman from Wisconsin, who may know, says it makes better beer as well.

The FDA's needless regulations will mean hundreds of millions of dollars in costs to brewers and farmers, many of whom are small operators. This amendment simply is not consistent with the spirit of the Regulatory Flexibility Act or the needs of today's small business job creators. I urge my colleagues to oppose the amendment.

Mr. Scott. Mr. Chairman?

Chairman Goodlatte. For what purpose does the gentleman from Virginia seek recognition?

Mr. Scott. Speak out of order for 1 minute.

Chairman Goodlatte. The gentleman is recognized.

Mr. Scott. Thank you, Mr. Chairman. I just wanted to take a moment to introduce some visitors from the U.K., an organization called

Kids Count, which has young people getting on the right track and staying on the right track, and I just wanted to let you know that they were here visiting the Judiciary Committee. Thank you very much.

Chairman Goodlatte. Well, I thank the gentleman. A number of members of this committee have visited the British Parliament, and we are glad to have you with us here today. So welcome.

Mr. Scott. Thank you.

Ms. Jackson Lee. Would the gentleman yield, Mr. Chairman, on your remarks?

Chairman Goodlatte. I would be happy to yield to the gentlewoman.

Ms. Jackson Lee. I thank the gentleman for his explanation and his commitment, as all of us have a commitment to job creation and small businesses, and I think Mr. Conyers and all of us on this side of the aisle would look for ways of narrowly carving out such impact on small businesses. Many of us have joined on a number of those legislative initiatives, but this is a wide net. This captures all aspects of the Food and Drug Administration's work, and frankly, I believe it is too broad and would welcome an opportunity to promote jobs in small businesses, but not to have various products and medications and food products escape regulatory schemes that we need to protect consumers and to save lives. I yield back to the gentleman.

Chairman Goodlatte. The question occurs on the amendment offered by the gentlewoman from Texas. All those in favor respond by saying aye.

Aye.

Those opposed no.

No.

Ms. Jackson Lee. Roll call.

Chairman Goodlatte. In the opinion of the chair the noes have it and the amendment is not agreed to.

Ms. Jackson Lee. Roll call.

Chairman Goodlatte. A recorded vote is requested. The clerk will call the roll.

Ms. Deterding. Mr. Goodlatte?

Chairman Goodlatte. No.

Ms. Deterding. Mr. Goodlatte votes no.

Mr. Sensenbrenner?

Mr. Sensenbrenner. No.

Ms. Deterding. Mr. Sensenbrenner votes no.

Mr. Coble?

Mr. Coble. No.

Ms. Deterding. Mr. Coble votes no.

Mr. Smith of Texas?

[No response.]

Ms. Deterding. Mr. Chabot?

Mr. Chabot. No.

Ms. Deterding. Mr. Chabot votes no.

Mr. Bachus?

Mr. Bachus. No.

Ms. Deterding. Mr. Bachus votes no.

Mr. Issa?

[No response.]

Ms. Deterding. Mr. Forbes?

[No response.]

Ms. Deterding. Mr. King?

Mr. King. No.

Ms. Deterding. Mr. King votes no.

Mr. Franks?

[No response.]

Ms. Deterding. Mr. Gohmert?

[No response.]

Ms. Deterding. Mr. Jordan?

[No response.]

Ms. Deterding. Mr. Poe?

[No response.]

Ms. Deterding. Mr. Chaffetz?

[No response.]

Ms. Deterding. Mr. Marino?

Mr. Marino. No.

Ms. Deterding. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

Ms. Deterding. Mr. Gowdy votes no.

Mr. Amodei?

[No response.]

Ms. Deterding. Mr. Labrador?

Mr. Labrador. No.

Ms. Deterding. Mr. Labrador votes no.

Mr. Farenthold?

Mr. Farenthold. No.

Ms. Deterding. Mr. Farenthold votes no.

Mr. Holding?

Mr. Holding. No.

Ms. Deterding. Mr. Holding votes no.

Mr. Collins?

[No response.]

Ms. Deterding. Mr. DeSantis?

Mr. DeSantis. No.

Ms. Deterding. Mr. DeSantis votes no.

Mr. Smith of Missouri?

Mr. Smith of Missouri. No.

Ms. Deterding. Mr. Smith of Missouri votes no.

Mr. Conyers?

Mr. Conyers. Aye.

Ms. Deterding. Mr. Conyers votes aye.

Mr. Nadler?

Mr. Nadler. Aye.

Ms. Deterding. Mr. Nadler votes aye.

Mr. Scott?

Mr. Scott. Aye.

Ms. Deterding. Mr. Scott votes aye.

Mr. Watt?

[No response.]

Ms. Deterding. Ms. Lofgren?

[No response.]

Ms. Deterding. Ms. Jackson Lee?

Ms. Jackson Lee. Aye.

Ms. Deterding. Ms. Jackson Lee votes aye.

Mr. Cohen?

[No response.]

Ms. Deterding. Mr. Johnson?

[No response.]

Ms. Deterding. Mr. Pierluisi?

Mr. Pierluisi. Aye.

Ms. Deterding. Mr. Pierluisi votes aye.

Ms. Chu?

Ms. Chu. Aye.

Ms. Deterding. Ms. Chu votes aye.

Mr. Deutch.

[No response.]

Ms. Deterding. Mr. Gutierrez?

[No response.]

Ms. Deterding. Ms. Bass?

[No response.]

Ms. Deterding. Mr. Richmond?

[No response.]

Ms. Deterding. Ms. DelBene?

Ms. DelBene. Aye.

Ms. Deterding. Ms. DelBene votes aye.

Mr. Garcia?

[No response.]

Ms. Deterding. Mr. Jeffries?

Mr. Jeffries. Aye.

Ms. Deterding. Mr. Jeffries votes aye.

Chairman Goodlatte. The gentleman from Texas.

Mr. Smith of Texas. I vote no, Mr. Chairman.

Ms. Deterding. Mr. Smith of Texas votes no.

Chairman Goodlatte. Are there any members who have not voted who wish to vote? The clerk will report.

Ms. Deterding. Mr. Chairman, eight members voted aye, 14 members voted nay.

Chairman Goodlatte. And the amendment is not agreed to. Are there further amendments to H.R. 2542? Seeing none, a reporting quorum being present, the question is on the motion to report the bill H.R. 2542 favorably to the House. Those in favor will say aye.

Aye.

Those opposed no.

No.

In the opinion of the chair the ayes have it and the bill is ordered

reported favorably.

Mr. Conyers. May we have a recorded vote?

Chairman Goodlatte. A recorded vote is requested, and the clerk will call the roll.

Ms. Deterding. Mr. Goodlatte?

Chairman Goodlatte. Aye.

Ms. Deterding. Mr. Goodlatte votes aye.

Mr. Sensenbrenner?

Mr. Sensenbrenner. Aye.

Ms. Deterding. Mr. Sensenbrenner votes aye.

Mr. Coble?

Mr. Coble. Aye.

Ms. Deterding. Mr. Coble votes aye.

Mr. Smith of Texas?

Mr. Smith of Texas. Aye.

Ms. Deterding. Mr. Smith of Texas votes aye.

Mr. Chabot?

Mr. Chabot. Aye.

Ms. Deterding. Mr. Chabot votes aye.

Mr. Bachus?

Mr. Bachus. Aye.

Ms. Deterding. Mr. Bachus votes aye.

Mr. Issa?

[No response.]

Ms. Deterding. Mr. Forbes?

[No response.]

Ms. Deterding. Mr. King?

Mr. King. Aye.

Ms. Deterding. Mr. King votes aye.

Mr. Franks?

[No response.]

Ms. Deterding. Mr. Gohmert?

[No response.]

Ms. Deterding. Mr. Jordan?

[No response.]

Ms. Deterding. Mr. Poe?

[No response.]

Ms. Deterding. Mr. Chaffetz?

[No response.]

Ms. Deterding. Mr. Marino?

Mr. Marino. Yes.

Ms. Deterding. Mr. Marino votes aye.

Mr. Gowdy?

Mr. Gowdy. Yes.

Ms. Deterding. Mr. Gowdy votes aye.

Mr. Amodei?

[No response.]

Ms. Deterding. Mr. Labrador?

Mr. Labrador. Yes.

Ms. Deterding. Mr. Labrador votes aye.

Mr. Farenthold?

Mr. Farenthold. Aye.

Ms. Deterding. Mr. Farenthold votes aye.

Ms. Deterding. Mr. Holding?

Mr. Holding. Aye.

Ms. Deterding. Mr. Holding votes aye.

Mr. Collins?

[No response.]

Ms. Deterding. Mr. DeSantis?

Mr. DeSantis. Aye.

Ms. Deterding. Mr. DeSantis votes aye.

Mr. Smith of Missouri?

Mr. Smith of Missouri. Aye.

Ms. Deterding. Mr. Smith of Missouri votes aye.

Mr. Conyers?

Mr. Conyers. No.

Ms. Deterding. Mr. Conyers votes no.

Mr. Nadler?

Mr. Nadler. No.

Ms. Deterding. Mr. Nadler votes no.

Mr. Scott?

Mr. Scott. No.

Ms. Deterding. Mr. Scott votes no.

Mr. Watt?

[No response.]

Ms. Deterding. Ms. Lofgren?

[No response.]

Ms. Deterding. Ms. Jackson Lee?

Ms. Jackson Lee. No.

Ms. Deterding. Ms. Jackson Lee votes no.

Mr. Cohen?

[No response.]

Ms. Deterding. Mr. Johnson?

[No response.]

Ms. Deterding. Mr. Pierluisi?

Mr. Pierluisi. No.

Ms. Deterding. Mr. Pierluisi votes no.

Ms. Chu?

Ms. Chu. No.

Ms. Deterding. Ms. Chu votes no.

Mr. Deutch?

[No response.]

Ms. Deterding. Mr. Gutierrez?

[No response.]

Ms. Deterding. Ms. Bass?

[No response.]

Ms. Deterding. Mr. Richmond?

[No response.]

Ms. Deterding. Ms. DelBene?

Ms. DelBene. No.

Ms. Deterding. Ms. DelBene votes no.

Mr. Garcia?

[No response.]

Ms. Deterding. Mr. Jeffries?

Mr. Jeffries. No.

Ms. Deterding. Mr. Jeffries votes no.

Chairman Goodlatte. Are there members who have not voted who wish to vote? The gentleman from Georgia?

Mr. Johnson. No.

Ms. Deterding. Mr. Johnson votes no.

Chairman Goodlatte. The gentleman from Texas?

Mr. Gohmert. Yes.

Ms. Deterding. Mr. Gohmert votes aye.

Chairman Goodlatte. The clerk will report.

Ms. Deterding. Mr. Chairman, 15 members voted aye, 9 members voted nay.

Chairman Goodlatte. And the bill is ordered reported favorably. Members will have 2 days to submit views.

We will now return to the RAPID Act, H.R. 2641, and see if we can get through the remaining amendments there. For what purpose does the gentleman from Michigan seek recognition?

Mr. Conyers. I have an amendment at the desk and would like it reported.

Chairman Goodlatte. The clerk will report the amendment.

Mr. Conyers. Thank you.

Ms. Deterding. Amendment to H.R. 2641 offered by Mr. Conyers of Michigan, page 32 after line 7 insert the following.

[The amendment of Mr. Conyers follows:]

***** INSERT 4-1 *****

Chairman Goodlatte. Without objection the amendment is considered as read, and the gentleman is recognized for 5 minutes on his amendment.

Mr. Conyers. Thank you, Mr. Chairman. It has become clear that H.R. 2641 is, in reality, an anti-regulatory measure designed, from my perspective, to give more control to the private sector over the approval process for environmentally sensitive construction projects, and I am very sorry to come to that conclusion, but under the current law, National Environmental Policy Act, all citizens from all walks of life, including individuals, neighborhoods, farmers, small business owners, and local officials have an opportunity to explain their concerns to those Federal agencies responsible for approving these projects.

By ensuring public participation, this process makes certain that the ultimate decision made by these agencies for these projects are well informed. Unfortunately, the cumulative effect of H.R. 2641 would be to limit the right of the public to comment on construction projects that may have an environmental impact by reducing opportunity for public input and requiring agencies to meet various deadlines.

For instance, the bill limits comment periods for environmental reviews other than a draft environmental impact statement to 30 days, even though the bill allows a lead agency to extend this deadline for good cause. That term is undefined and would, of course, be a lightning rod for potential litigation. Given the broad scope of activities covered by this measure, the National Environmental Policy Act, we

would -- the bill could -- my amendment would simply ensure the right of the public to comment on construction projects that may have an environmental impact, and it is not, in any way, adversely impacted by any provision of the bill.

As a result, the bill will not be construed to cut off the rights of the public to comment on any construction project that may have environmental consequences. I think this is good, and if the bill's proponents claim that it will have no substantive impact on public participation, then hopefully they would have no reason to oppose this amendment. I hope the members of the committee will consider my amendment favorably, and I yield back my time.

Chairman Goodlatte. The chair thanks the gentleman. For what purpose does the gentleman from Pennsylvania seek recognition?

Mr. Marino. I oppose this amendment.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Marino. Thank you. It is unnecessary and undermines the carefully targeted reforms made by this bill. The RAPID Act will create jobs by ensuring that the Federal environmental review and permitting process works like it should. The RAPID Act is drafted to make agencies operate efficiently and transparently. It does not prevent citizens from participating in this process. It is taking 7, 8, 9, 10 years to get approval, to get approval, which once was supposed to take only 6 months.

For example, National Environmental Policy Act regulations only require agencies to allow 45 days for public comment on draft

environmental impact statements, and 30 days for public comments on finals. The RAPID Act sets 60-day and 30-day comment periods respectively, and allows the lead agency to extend them for good cause.

This is more than fair. It is also perfectly reasonable to require, as the bill does, that a person comment on an environmental document before challenging it in court and to bring suit within 6 months as opposed to 6 years. Not-in-my-backyard activists should not be able to delay a project indefinitely by playing hide the ball with agencies or by restoring -- excuse me, by resting on their rights.

Another example I would like to give, two examples. In my district, in Lackawanna County in the 10th Congressional District of Pennsylvania, in 2006 Northeast Ethanol and Renewable Resources LTD proposed a \$150 million plant in the city of Mayfield. The plant would have an annual production capacity of 50 million gallons and the potential to create 100 jobs. Status of the project: Not built after years. Why? Bureaucratic red tape. The company folded their tent up and said this is -- we cannot afford this.

On a national perspective, the Army Corps of Engineers spent, actually spent 13 years reviewing a potential dredging project at the port of Savannah in Georgia with the end of the review process not coming until 2012. The project is expected to net more than \$174 million in annual benefits to the Nation, and it has a benefit-to-cost ratio of \$5.50 for every dollar invested.

Mid-Atlantic Pathway Delaware and Maryland cancelled in 2012 transmission lines expected to cost \$1.2 billion and provide 13,000

megawatts of renewable wind generation. Project cancelled in 2012 because of cost, environmental groups, and bureaucratic red tape.

And if my colleagues would have looked at my legislation, there is plenty of time here. In fact, it sets -- my legislation sets 4-1/2 year maximum deadline, 4-1/2 years -- not 10 -- 4-1/2 years to complete the review process; 18 months for an environmental assessment and 36 months, 3 years for an environmental impact statement. And it establishes 180-day statute, 6 months limitation to bring suits for parties that participated in the public notice and comment process on the environmental document.

Now, I don't see where this is unrealistic, I don't see where this is thwarting any protective measures that should be installed, but given the fact that companies are pulling up stakes and leaving projects where they have already spent millions and millions of dollars because we have bureaucrats that just do not do their job but still collect their pay. For these reasons, I urge my colleagues not to support the amendment.

Chairman Goodlatte. The question occurs on the amendment offered by the gentleman from Michigan. All those in favor, respond by saying aye.

Aye.

Those opposed no.

No.

In the opinion of the chair the noes have it, and the amendment is not agreed to.

Mr. Conyers. May I get a recorded vote, sir?

Chairman Goodlatte. The right honorable Member from Detroit requests a recorded vote, and the clerk will call the roll.

Ms. Deterding. Mr. Goodlatte?

Chairman Goodlatte. No.

Ms. Deterding. Mr. Goodlatte votes no.

Mr. Sensenbrenner?

[No response.]

Ms. Deterding. Mr. Coble?

Mr. Coble. No.

Ms. Deterding. Mr. Coble votes no.

Mr. Smith of Texas?

Mr. Smith of Texas. No.

Ms. Deterding. Mr. Smith of Texas votes no.

Mr. Chabot?

Mr. Chabot. No.

Ms. Deterding. Mr. Chabot votes no.

Mr. Bachus?

[No response.]

Ms. Deterding. Mr. Issa?

[No response.]

Ms. Deterding. Mr. Forbes?

[No response.]

Ms. Deterding. Mr. King?

Mr. King. No.

Ms. Deterding. Mr. King votes no.

Mr. Franks?

[No response.]

Ms. Deterding. Mr. Gohmert?

[No response.]

Ms. Deterding. Mr. Jordan?

[No response.]

Ms. Deterding. Mr. Poe?

[No response.]

Ms. Deterding. Mr. Chaffetz?

[No response.]

Ms. Deterding. Mr. Marino?

Mr. Marino. No.

Ms. Deterding. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

Ms. Deterding. Mr. Gowdy votes no.

Mr. Amodei?

[No response.]

Ms. Deterding. Mr. Labrador?

Mr. Labrador. No.

Ms. Deterding. Mr. Labrador votes no.

Mr. Farenthold?

Mr. Farenthold. No.

Ms. Deterding. Mr. Farenthold votes no.

Mr. Holding?

Mr. Holding. No.

Ms. Deterding. Mr. Holding votes no.

Mr. Collins?

[No response.]

Ms. Deterding. Mr. DeSantis?

Mr. DeSantis. No.

Ms. Deterding. Mr. DeSantis votes no.

Mr. Smith of Missouri?

Mr. Smith of Missouri. No.

Ms. Deterding. Mr. Smith of Missouri votes no.

Mr. Conyers?

Mr. Conyers. Aye.

Ms. Deterding. Mr. Conyers votes aye.

Mr. Nadler?

Mr. Nadler. Aye.

Ms. Deterding. Mr. Nadler votes aye.

Mr. Scott?

Mr. Scott. Aye.

Ms. Deterding. Mr. Scott votes aye.

Mr. Watt?

[No response.]

Ms. Deterding. Ms. Lofgren?

[No response.]

Ms. Deterding. Ms. Jackson Lee?

Ms. Jackson Lee. Aye.

Ms. Deterding. Ms. Jackson Lee votes aye.

Mr. Cohen?

[No response.]

Ms. Deterding. Mr. Johnson?

[No response.]

Ms. Deterding. Mr. Pierluisi?

Mr. Pierluisi. Aye.

Ms. Deterding. Mr. Pierluisi votes aye.

Ms. Chu?

Ms. Chu. Aye.

Ms. Deterding. Ms. Chu votes aye.

Mr. Deutch?

[No response.]

Ms. Deterding. Mr. Gutierrez?

[No response.]

Ms. Deterding. Ms. Bass?

[No response.]

Ms. Deterding. Mr. Richmond?

[No response.]

Ms. Deterding. Ms. DelBene?

Ms. DelBene. Aye.

Ms. Deterding. Ms. DelBene votes aye.

Mr. Garcia?

[No response.]

Ms. Deterding. Mr. Jeffries?

[No response.]

Chairman Goodlatte. The gentleman from Wisconsin?

Mr. Sensenbrenner. No.

Ms. Deterding. Mr. Sensenbrenner votes no.

Chairman Goodlatte. The gentleman from Alabama?

Mr. Bachus. No.

Ms. Deterding. Mr. Bachus votes no.

Chairman Goodlatte. The gentleman from Ohio?

Mr. Jordan. No.

Ms. Deterding. Mr. Jordan votes no.

Chairman Goodlatte. Are there other members who -- the gentleman from Texas?

Mr. Gohmert. No.

Ms. Deterding. Mr. Gohmert votes no.

Chairman Goodlatte. The clerk will report.

Ms. Deterding. Mr. Chairman, seven members voted aye, 16 members voted nay.

Chairman Goodlatte. And the amendment is not agreed to. For what purpose does the gentlewoman from Texas seek recognition?

Ms. Jackson Lee. I have an amendment at the desk, Mr. Chairman.

Chairman Goodlatte. The clerk will report the amendment.

[The amendment of Ms. Jackson Lee follows:]

***** INSERT 4-2 *****

Ms. Deterding. Amendment to H.R. 2641 offered by Ms. Jackson Lee of Texas. Page 25, strike line 5 and all that follows through line 23.

Chairman Goodlatte. The amendment -- without objection, the amendment will be considered as read, and the gentlewoman is recognized for 5 minutes on her amendment.

Ms. Jackson Lee. Mr. Chairman, I am going to call upon the sympathy and empathy of my colleagues. Maybe we have not read this bill closely to understand what devastating impact would come about if we start deeming actions that have actually not taken place. I know that both sides of the aisle have gotten caught up with the word "deemed," and I am sure that I will hear one of my colleagues cite some example of some member of my dear colleagues using deeming. But in this instance we have the ability to fix it, and so you are deeming approval of any project for which agency does not meet deadlines contained in the bill.

My amendment strikes that provision, because I know if we come to our senses this is not the way we would want to run the government. Particularly, I think this bill focuses on construction projects, and we know that construction projects, I remember, and my good friends from Texas remember the intentions of building a major road infrastructure project through Texas that our Governor was excited about, and ranchers stood up and said, not on my land.

And in the instance of their opposition, the government could come to their aid in terms of the environmental impact, possibly the

antiquities issue that many construction projects face, but the projects get through it, the citizens believe they have been responded to, but you are now eliminating all of those protections for landowners and others who are experiencing major construction funded by Federal dollars. You are literally putting up two systems. You are eliminating NEPA, which has worked well for 40 years. But all you are saying is come one, come all, bring the cement, bring the oppression, and forget about the innocent citizens who own property and are attempting to get a response from their government.

So I would ask my colleagues to support an amendment that brings us back to reality, recognizing the construct that we have that has worked for now 40 years, does not call upon us to exempt construction projects from the normal regular order. My amendment simply strikes the language that says deemed approved, pulling it from space. Let's deem that it is approved, as agencies face major responsibilities and may have missed the deadline, and by missing the deadline, they grab from space and the atmosphere, the cybersphere the opportunity to approve a major funded project impacting thousands, maybe millions of Americans. I would ask my colleagues --

Mr. Conyers. Will the gentlelady yield?

Ms. Jackson Lee. I would be happy to yield to the gentleman.

Mr. Conyers. I not only want to support your amendment, but ask unanimous consent to put into the record a letter from the Executive Office of the President, the Council on Environmental Quality submitted by the chair, Nancy Sutley, who says in one part of a two-page letter,

The legislation, namely 2641, also establishes arbitrary deadlines for the completion of NEPA analysis. Factors such as feasibility and engineering studies, non-Federal funding, conflicting priorities, local opposition or applicant responsiveness are just a few examples of delays outside of the control of an agency.

Arbitrary deadlines and provisions that automatically approve a project if the agency is unable to make a decision due to one of the factors described above will lead to increased litigation, more delays, and denied projects as agencies will have no choice but to deny a project if the review and analysis cannot be completed before the proposed deadlines, and I think that supports the underlying premise of your amendment.

Ms. Jackson Lee. I reclaim my time. I want to thank the gentleman for his instructive contribution and the addition of that very important information into the record, and I would just build on what the gentleman has said is that this particular language would add to the delay and further litigation, which would be more dilatory in these projects trying to be done, so I would ask my colleagues to support the amendment, and unless anyone wants me to yield, I yield back my time.

Chairman Goodlatte. For what purpose does the gentleman from Michigan seek recognition?

Mr. Conyers. I ask unanimous consent to have the letter sent to you and myself from the chair of the Council on Environmental Quality inserted in the record at this point.

Chairman Goodlatte. Without objection, it will be made a part of the record.

[The letter from the Council on Environmental Quality follows:]

***** COMMITTEE INSERT *****

Mr. Conyers. Thank you.

Chairman Goodlatte. And for what purpose does the gentleman from Pennsylvania seek recognition?

Mr. Marino. I oppose the amendment.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Marino. First I would like to ask unanimous consent to submit a document pursuant to my colleague on the other side of the aisle, his letter from the Executive Office of President, Council on Environmental Quality dated June 24 -- July 24, 2013, that he just entered in the record. I would like to enter into the record Federal Register volume 46, number 55, and that document from March of 1981, rules and regulations promulgated by the Executive Office, Council on Environmental Quality.

Chairman Goodlatte. Without objection, it will be made a part of the record.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Marino. I would like to read a portion of this. They were out on a national tour having hearings, and a question was asked, How long should a NEPA process take to complete? Now, bear in mind, these are -- it is the same entity, the same organization that now submits a letter saying that our legislation is flawed.

Answer: When EIS is required, the process obviously will take longer than when EA is the only document prepared, but the Council's NEPA regulations encourage streamlined review, adoption of deadlines, elimination of duplicative work, eliciting suggested alternatives and other comments early through scoping cooperation among agencies and the consultation with applicants during the project planning. The Council has advised agencies that under the new NEPA regulation, even large, complex energy projects would require only 12 months for the completion of the entire EIS process. They go on to say, for cases in which only an environmental assessment will be prepared, the NEPA process should take no more than 3 months, and in many cases, substantially less as part of the normal analysis. I would like that submitted as part of the record unanimously.

Chairman Goodlatte. It is already a part of the record.

Mr. Marino. This is a document that, you know -- we have bureaucrats working for this administration that draw a large pay for writing regulation, and the public herein state where the position was at one point and now it has changed, and I would submit, therefore, that the Executive Office of the President, the Council on Environmental Quality is obviously not credible.

The RAPID Act will ensure that the Federal environmental review implementing process is conducted in a transparent and efficient manner. At the same time, it ensures that the process will be fair, and it does not require agencies to approve or deny any projects. The amendment would strike provisions that deem projects approved if agencies do not take action to approve or deny them within the RAPID Act's reasonable deadlines.

I would ask my colleagues, with true unemployment in excess of 20 million Americans and with the United States ranking an abysmal 17th in the world in the time that it takes to obtain governmental approval of the new developments, don't we need this powerful incentive for agencies to wrap up the matters in front of them? The RAPID Act does not require any agency to approve a project by its deadlines. An agency can deny a permit within its deadlines, but an agency clearly should act within its deadlines, and the RAPID Act assures that that will happen.

Two more of the six to seven examples that I have in my hometown of Williamsport, Pennsylvania, Lycoming County, in October 2008, PPL Corporation filed an application with the U.S. Nuclear Regulatory Commission for a license to build and operate a nuclear power plant near Berwick, PA. The Bell Bend nuclear plant would be built near the company's existing two-unit Susquehanna nuclear power plants. The plant would produce 1600 megawatts of electricity, enough to power more than one million homes. Early estimates by PPL would be the project would cost \$15 billion to construct, including escalating fees and

nuclear fuel.

Still delayed. Why? The NRC continues to review the project that was started at the beginning of 2008, combining the operating license. Most recently in September 2012, the NRC informed PPL that it had identified another issue, again to delay the process. From Federal --

Mr. Conyers. Would the gentleman yield to me?

Mr. Marino. Sure. Yes, I will.

Mr. Conyers. I just wanted to recognize that this letter I thought was pretty credible from the Council on Environmental Quality, but you say you have another letter that contradicts it, and therefore, you think the Council is not worthy of recognition before the committee?

Mr. Marino. If you feel its recognition from your perspective, I do not oppose that, but this is -- the document I have refers to, this is the Council on Environmental Quality that made this statement based -- it is the same agency.

Mr. Conyers. Well, I have -- have you seen my letter? I haven't seen yours.

Mr. Marino. I have seen your letters, letter, and my letter is -- it is not a letter, it is part of the Federal Register.

Mr. Conyers. Well, mine is a letter from the Environmental Quality.

Mr. Marino. I understand that.

Mr. Conyers. To the chairman of this committee.

Chairman Goodlatte. What the gentleman from Pennsylvania has

submitted in the record is the statement made by the Council on Environmental Quality many years ago --

Mr. Marino. Yes.

Chairman Goodlatte. -- about how long it would take to do environmental impact statements. He said even on complex projects, not more than 12 months. Am I correct in that?

Mr. Marino. Yes, sir.

Chairman Goodlatte. Yes.

Mr. Conyers. Well, my letter is dated July 24th, only days ago, so I think my letter trumps your letter.

Mr. Marino. I tell you what, with all due respect, I think my Federal Register trumps a letter, particularly from this organization and this administration.

Mr. Conyers. Have you got a deck of cards?

Chairman Goodlatte. The question occurs on the amendment offered by the gentlewoman from Texas. All those in favor respond by saying aye.

Aye.

Those opposed no.

In the opinion of the chair the noes have it, and the amendment is not agreed to.

Are there further amendments to H.R. --

Mr. Conyers. Record vote, please.

Chairman Goodlatte. Recorded vote is requested, and the clerk will call the roll.

Ms. Deterding. Mr. Goodlatte?

Chairman Goodlatte. No.

Ms. Deterding. Mr. Goodlatte votes no.

Mr. Sensenbrenner?

Mr. Sensenbrenner. No.

Ms. Deterding. Mr. Sensenbrenner votes no.

Mr. Coble?

Mr. Coble. No.

Ms. Deterding. Mr. Coble votes no.

Mr. Smith of Texas?

Mr. Smith of Texas. No.

Ms. Deterding. Mr. Smith of Texas votes no.

Mr. Chabot?

Mr. Chabot. No.

Ms. Deterding. Mr. Chabot votes no.

Mr. Bachus?

Mr. Bachus. No.

Ms. Deterding. Mr. Bachus votes no.

Mr. Issa?

[No response.]

Ms. Deterding. Mr. Forbes?

[No response.]

Ms. Deterding. Mr. King?

Mr. King. No.

Ms. Deterding. Mr. King votes no.

Mr. Franks?

[No response.]

Ms. Deterding. Mr. Gohmert?

[No response.]

Ms. Deterding. Mr. Jordan?

Mr. Jordan. No.

Ms. Deterding. Mr. Jordan votes no.

Mr. Poe?

[No response.]

Ms. Deterding. Mr. Chaffetz?

[No response.]

Ms. Deterding. Mr. Marino?

Mr. Marino. No.

Ms. Deterding. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

Ms. Deterding. Mr. Gowdy votes no.

Mr. Amodei?

[No response.]

Ms. Deterding. Mr. Labrador?

Mr. Labrador. No.

Ms. Deterding. Mr. Labrador votes no.

Mr. Farenthold?

Mr. Farenthold. No.

Ms. Deterding. Mr. Farenthold votes no.

Mr. Holding?

Mr. Holding. No.

Ms. Deterding. Mr. Holding votes no.

Mr. Collins?

[No response.]

Ms. Deterding. Mr. DeSantis?

Mr. DeSantis. No.

Ms. Deterding. Mr. DeSantis votes no.

Mr. Smith of Missouri?

Mr. Smith of Missouri. No.

Ms. Deterding. Mr. Smith of Missouri votes no.

Mr. Conyers?

Mr. Conyers. Aye.

Ms. Deterding. Mr. Conyers votes aye.

Mr. Nadler?

Mr. Nadler. Aye.

Ms. Deterding. Mr. Nadler votes aye.

Mr. Scott?

Mr. Scott. Aye.

Ms. Deterding. Mr. Scott votes aye.

Mr. Watt?

[No response.]

Ms. Deterding. Ms. Lofgren?

[No response.]

Ms. Deterding. Ms. Jackson Lee?

[No response.]

Ms. Deterding. Mr. Cohen?

[No response.]

Ms. Deterding. Mr. Johnson?

[No response.]

Ms. Deterding. Mr. Pierluisi?

Mr. Pierluisi. Aye.

Ms. Deterding. Mr. Pierluisi votes aye.

Ms. Chu?

Ms. Chu. Aye.

Ms. Deterding. Ms. Chu votes aye.

Mr. Deutch?

[No response.]

Ms. Deterding. Mr. Gutierrez?

[No response.]

Ms. Deterding. Ms. Bass?

[No response.]

Ms. Deterding. Mr. Richmond?

[No response.]

Ms. Deterding. Ms. DelBene?

Ms. DelBene. Aye.

Ms. Deterding. Ms. DelBene votes aye.

Mr. Garcia?

Mr. Garcia. Aye.

Ms. Deterding. Mr. Garcia votes aye.

Mr. Jeffries?

[No response.]

Chairman Goodlatte. The gentleman from Virginia?

Mr. Forbes. No.

Ms. Deterding. Mr. Forbes votes no.

Chairman Goodlatte. The gentlewoman from Texas?

Ms. Jackson Lee. Aye.

Ms. Deterding. Ms. Jackson Lee votes aye.

Chairman Goodlatte. Are there other members who have not voted who wish to vote? The clerk will report.

Ms. Deterding. Mr. Chairman, eight members voted aye, 16 members voted nay.

Chairman Goodlatte. And the amendment is not agreed to. Are there further amendments to H.R. 2641? There being none, a reporting quorum being present, the question is on the motion to report the bill H.R. 2641 favorably to the House. Those in favor will say aye.

Aye.

Those opposed no.

No.

In the opinion of the chair, the ayes have it, and the bill is ordered reported favorably.

Mr. Conyers. Recorded vote.

Chairman Goodlatte. A recorded vote is requested, and the clerk will call the roll.

Ms. Deterding. Mr. Goodlatte?

Chairman Goodlatte. Aye.

Ms. Deterding. Mr. Goodlatte votes aye.

Mr. Sensenbrenner?

Mr. Sensenbrenner. Aye.

Ms. Deterding. Mr. Sensenbrenner votes aye.

Mr. Coble?

Mr. Coble. Aye.

Ms. Deterding. Mr. Coble votes aye.

Mr. Smith of Texas?

Mr. Smith of Texas. Aye.

Ms. Deterding. Mr. Smith of Texas votes aye.

Mr. Chabot?

Mr. Chabot. Yes.

Ms. Deterding. Mr. Chabot votes aye.

Mr. Bachus?

Mr. Bachus. Aye.

Ms. Deterding. Mr. Bachus votes aye.

Mr. Issa?

[No response.]

Ms. Deterding. Mr. Forbes?

Mr. Forbes. Aye.

Ms. Deterding. Mr. Forbes votes aye.

Mr. King?

Mr. King. Aye.

Ms. Deterding. Mr. King votes aye.

Mr. Franks?

[No response.]

Ms. Deterding. Mr. Gohmert?

[No response.]

Ms. Deterding. Mr. Jordan?

Mr. Jordan. Yes.

Ms. Deterding. Mr. Jordan votes aye.

Mr. Poe?

[No response.]

Ms. Deterding. Mr. Chaffetz?

[No response.]

Ms. Deterding. Mr. Marino?

Mr. Marino. Yes.

Ms. Deterding. Mr. Marino votes aye.

Mr. Gowdy?

Mr. Gowdy. Yes.

Ms. Deterding. Mr. Gowdy votes aye.

Mr. Amodei?

[No response.]

Ms. Deterding. Mr. Labrador?

Mr. Labrador. Yes.

Ms. Deterding. Mr. Labrador votes aye.

Mr. Farenthold?

Mr. Farenthold. Aye.

Ms. Deterding. Mr. Farenthold votes aye.

Mr. Holding?

Mr. Holding. Aye.

Ms. Deterding. Mr. Holding votes aye.

Mr. Collins?

[No response.]

Ms. Deterding. Mr. DeSantis?

Mr. DeSantis. Aye.

Ms. Deterding. Mr. DeSantis votes aye.

Mr. Smith of Missouri?

Mr. Smith of Missouri. Aye.

Ms. Deterding. Mr. Smith of Missouri votes aye.

Mr. Conyers?

Mr. Conyers. Aye. No.

Ms. Deterding. Mr. Conyers votes no.

Mr. Nadler?

Mr. Nadler. No.

Ms. Deterding. Mr. Nadler votes no.

Mr. Scott?

Mr. Scott. No.

Ms. Deterding. Mr. Scott votes no.

Mr. Watt?

[No response.]

Ms. Deterding. Ms. Lofgren?

[No response.]

Ms. Deterding. Ms. Jackson Lee?

Ms. Jackson Lee. No.

Ms. Deterding. Ms. Jackson Lee votes no.

Mr. Cohen?

[No response.]

Ms. Deterding. Mr. Johnson?

Mr. Johnson. No.

Ms. Deterding. Mr. Johnson votes no.

Mr. Pierluisi?

Mr. Pierluisi. No.

Ms. Deterding. Mr. Pierluisi votes no.

Ms. Chu?

Ms. Chu. No.

Ms. Deterding. Ms. Chu votes no.

Mr. Deutch?

[No response.]

Ms. Deterding. Mr. Gutierrez?

[No response.]

Ms. Deterding. Ms. Bass?

[No response.]

Ms. Deterding. Mr. Richmond?

[No response.]

Ms. Deterding. Ms. DelBene?

Ms. DelBene. No.

Ms. Deterding. Ms. DelBene votes no.

Mr. Garcia?

Mr. Garcia. No.

Ms. Deterding. Mr. Garcia votes no.

Mr. Jeffries?

[No response.]

Chairman Goodlatte. The gentleman from Arizona?

Mr. Franks. Yes.

Chairman Goodlatte. Gentleman from --

Ms. Deterding. Mr. Franks votes aye.

Chairman Goodlatte. Gentleman from Texas?

Mr. Gohmert. Aye.

Ms. Deterding. Mr. Gohmert votes aye.

Chairman Goodlatte. Are there other members who have not voted who wish to vote? The clerk will report.

Ms. Deterding. Mr. Chairman, 18 members voted aye, 9 members voted nay.

Chairman Goodlatte. The ayes have it, and the bill is ordered reported favorably to the House. Members will have 2 days to submit views. That concludes the business of the committee today. I thank all the members for their participation in this markup, and the committee will reconvene in September. The committee stands adjourned.

Ms. Jackson Lee. Have a wonderful work recess.

[Whereupon, at 5:45 p.m., the committee was adjourned.]